

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

CORAM:

THE HON'BLE MR.JUSTICE N. ANAND VENKATESH

Cr1.O.P.No.4407 of 2018

N.Maheshwari

... Petitioner

Vs.

1.The Superintendent of Police,
Thiruvannamalai,
Thiruvannamalai District.

2.The Deputy Superintendent of Police,
Arni, Arni Taluk,
Thiruvannamalai Distirct.

3.The Sub-Inspector of Police,
Arni Town Police Station,
Arni, Thiruvannamalai District.

4.Mr.Vinayagamoorthy
Inspector of Police,
Arni Town Police Station,
Arni, Thiruvannamalai District.

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the third respondent herein to alter the section from 174 of Cr.P.C. to Section 306 of I.P.C pending in Crime No.61/2018 on the file of the third respondent police.

For Petitioner : Mr.N.Elumalai

For Respondents : Mr.M.Mohamed Riyaz
1 to 3 Additional Public Prosecutor

For Respondent 4: Mr.G.Arumugarajan

O R D E R

This petition has been filed seeking for a direction to the third respondent to alter the FIR by adding Section 306 of Indian Penal Code, which is pending in Crime No.61 of 2018.

2. The learned Additional Public Prosecutor on instructions, would submit that the third respondent-police has already investigated the case and filed a closure report on the ground of mistake of fact, before the learned Judicial Magistrate, Arni.

3. The learned counsel for the petitioner would submit that on 20.01.2018, one Sankar and others attacked the son of the petitioner. A complaint was also given in this regard against Sankar and others, but no action was taken by the police. However, based on the false complaint given by Sankar, the fourth respondent, who was the Inspector of Police, Arni Town Police Station called the petitioner's son and harassed him and also threatened him stating that he will foist a case. Not able to bear the harassment meted out by the fourth respondent, the petitioner's son committed suicide by hanging on 22.01.2018. The learned counsel for the petitioner also brought to the notice of this Court the suicide note left behind by the deceased, wherein the deceased had made certain allegations against the fourth respondent.

4. The learned counsel would further submit that the cause of death of the petitioner's son was the fourth respondent's harassment and therefore, this case ought not to have been investigated by the Sub-Inspector of the same police station. As expected by the petitioner, now a closure report has been filed before the concerned Court, even without examining this petitioner. Therefore, the learned counsel would submit that the case has to be investigated by an Independent Officer and the real truth behind the death of the petitioner's son must be found out.

5. This Court has carefully considered the submissions made on either side.

6. The suicide note left by the petitioner's son makes certain pointed allegations against the fourth respondent, who was the Inspector of Police of Arni Town Police Station. Therefore, in the fairness of things, this case should have been investigated by some other police or another Independent Officer. However, the Sub-Inspector of Police of the same Police Station has chosen to investigate this case and he has also filed a closure report on the ground of mistake of fact. Justice must not only be done, but seen to be done.

7. This Court is of the considered view that this case has to be investigated by an Independent Officer, in order to find out the real truth behind the death of the petitioner's son. Therefore, the closure report filed by the third respondent is hereby set aside. The Deputy Superintendent of Police, Arni Taluk, is directed to conduct a fresh investigation in Crime No.61 of 2018, in accordance with the procedure contemplated under Section 174 of Criminal Procedure Code. The third respondent is directed to hand over the entire case dairy to the Deputy Superintendent of Police, Arni Taluk, within a period of 10 days from the date of receipt of a copy of this order. The Deputy Superintendent of Police, Arni Taluk, shall independently conduct a fresh investigation and shall complete the same as expeditiously as possible and file a report before the concerned Court.

8. With the above direction, this Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

nmm/dss
To

- 1.The Superintendent of Police,
Thiruvannamalai,
Thiruvannamalai District.
- 2.The Deputy Superintendent of Police,
Arni, Arni Taluk,
Thiruvannamalai Distirct.
- 3.The Sub-Inspector of Police,
Arni Town Police Station,
Arni, Thiruvannamalai District.
- 4.The Additional Public Prosecutor
Madras High Court, Chennai.

+1 cc to Mr.G.Arumugaraja, Advocate SR.No.81449

+1 cc to Mr.N.Elumalai, Advocate SR.No.80874

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CA(CO)
CSL/21.12.2018