

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.8412 of 2018
and Crl.M.P.No.4367 of 2018

C.Meenambal

..Petitioner/Defacto
complainant

Vs

1.The Principal Secretary (Home affairs)
Secretariat
Fort St.George, Chennai 600 009.

2.The Director General of Police
Tamil Nadu Police Head Quarters
Kamarajar Salai, Chennai 600 004.

3.The Commissioner of Police
Office of the Greater Chennai Police Commissioner
Poonamallee High Road, Vepery
Chennai 600 007.

4.The Deputy Commissioner of Police
Washermanpet Police District
H5 Police Station campus
New Washermanpet, Chennai 600 081.

5.The Assistant Commissioner of Police
Washermanpet Range
H3 Police Station campus
Tondiarpet, Chennai 600 081.

6.The Inspector of Police
H3-Tondiarpet Police Station
Tondiarpet, Chennai 600 081.

.. Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the 1st to 3rd respondents to transfer the Crime No.451 of 2017 from the file of the 6th respondent to CBCID for further investigation and to file an additional charge sheet.

For Petitioner : Mr.K.B.Vivekanandhan

For Respondents: Mr.C.Raghavan

Government Advocate (Crl.Side)

O R D E R

This petition has been filed to direct the respondents 1 to 3 to transfer the case in Crime No.451 of 2017 from the file of the 6th respondent to CBCID for further investigation and to file an additional charge sheet.

2. On the complaint of Meenambal, the respondent police registered an FIR in Cr.No.451 of 2017 on 28.02.2017 under Section 174 Cr.P.C. It is the case of Meenambal that her son Saravanan, aged about 33 years, suffered chest pain on 27.02.2017 and was admitted to Vasantha Hospital, where he was treated by Dr.Nanthi Varman. She has further alleged in the FIR that, Dr.Nanthi Varman took ECG of the patient and informed her that the condition of her son was not critical. However, in the course of the day, Saravanan breathed his last and therefore, Meenambal lodged the complaint as stated above. Police took up the investigation of the case and sent the body of Saravanan for post-mortem. The post-mortem report revealed that the death of Saravanan was due to cardiac arrest as a result of coronary artery disease and injecting substance containing promethazine compound as detected in chemical analysis. Thereafter, the police filed an alteration report for altering the case from one under Section 174 Cr.P.C. to Section 304-A IPC. After completing the investigation, the police filed a charge sheet in C.C.No.3801 of 2017 before the XV Metropolitan Magistrate, George Town, Chennai against Dr.Nanthi Varman for the offence under Section 304-A IPC. While so, Meenambal has filed the present application for quashing the final report and for ordering further investigation in the case on the ground that, the investigation has been perfunctory.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the State.

4. Learned counsel for the petitioner submitted that the police had colluded with Dr.Nanthi Varman and have prosecuted him only for an offence under Section 304-A IPC, which is a bailable offence, instead of charging him for culpable homicide.

5. Per contra, learned Government Advocate (Crl.Side) refuted the contentions.

6. This Court gave its anxious consideration to the rival submissions.

7. For prosecuting a medical professional, the Supreme Court has issued guidelines in Jacob Mathew v. State of Punjab [(2005) AIR SCW 3685]. On a reading of the Final Report and the accompanying documents, this Court finds that the respondent police have conducted a thorough investigation and

have filed a Final Report against Dr.Nanthi Varman holding that he was negligent in treating the patient. The contention of the learned counsel for the petitioner that the doctor should have been prosecuted for culpable homicide requires to be stated only to be rejected. Section 299 IPC speaks about culpable homicide:

"299. Culpable homicide._ Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide."

8. It is not the case of Meenambal that, there was previous enmity between her son Saravanan and Dr.Nanthi Varman or that Dr.Nanthi Varman had committed an act with the knowledge that it will lead to the death of Saravanan. The death of Saravanan has been on account of negligence on the part of the medical professional and not on account of any previous enmity, knowledge or intention. In such view of the matter, this Court does not find any merit in the contention of the learned counsel for the petitioner. Hence, this petition is devoid of merits and the same stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gms

To

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6.The Inspector of Police
H3-Tondiarpet Police Station
Tondiarpet, Chennai 600 081.

7.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.K.B.Vivekanandhan, Advocate Sr.No.35075

BS(CO)
sm:13.6.2018

Cr1.O.P.No.8412 of 2018



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