

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.25644 of 2017

Om Prakash Sharma

..Petitioner/Father of the
deceased

Vs

1.The Director General of Police,
No.4, Dumas Street,
Puducherry 605 001.

2.The Inspector General of Police,
Beach Road, Puducherry.

3.The Superintendent of Police [West],
2B Puducherry Police Complex,
By-pass Road, Koodapakkam Junction,
Villianur, Puducherry.

4.The Inspector of Police,
I-1, Nettapakkam Police Station,
Puducherry 605 106.
(Crime No.11 of 2017)

.. Respondents/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C., to alter the offence punishable under Section 379 and 302 IPC concerned in Crime No.11 of 2017, on the file of the 4th respondent and investigate the matter in accordance with law and to file a final report.

For Petitioner : Mr.R.Parthiban

For Respondents : Mr.Bharatha Chakravarthy,
Public Prosecutor [Puducherry]

O R D E R

This petition has been filed to direct the 4th respondent to file final report in Crime No.11 of 2017.

2.One Dinesh Kumar, who is a lorry driver by profession was carrying goods from Uttar Pradesh to Chennai, during the first week of March 2017. After delivering the goods in Chennai, he joined his friend Bijinder Singh and went to Puducherry. There a mishap took place, in which, Dinesh Kumar lost his life. Pursuant to which, a case in Crime No.11 of 2017 was registered by the 4th respondent under Section

174 Cr.P.C. Under such circumstances, the petitioner, who is the father of the deceased Dinesh Kumar has filed the present petition with the above prayer.

3.Heard Mr.Parthiban, learned counsel for the petitioner and learned Public Prosecutor appearing for the respondents.

4.Mr.Parthiban submitted that Dinesh Kumar had suffered head injury, which shows that he must have been attacked by Bijinder Singh and thereafter, pushed into the water tank, to make it look as if he had died of drowning.

5.Per contra, learned Public Prosecutor refuted the contentions and produced the Post-mortem Certificate, Viscera Report and the Expert opinion.

6.On a perusal of these documents, it is seen that 0.012g% of liquor has been detected in the Viscera. Thus, it is evident that the deceased must have consumed liquor. The Post-mortem Report shows that the death was on account of drowning and that the injury on the head was ante-mortem. This means that even before the death of Dinesh Kumar, he had suffered the injury and the death was not on account of the injury, but on account of asphyxia resulting from drowning. The Expert, in his opinion has stated that the injury could have occurred on the head hitting the floor of the tank or on the wall of the tank. Under such circumstances, the 4th respondent has completed the investigation and has filed a closure report before the Judicial Magistrate-I, Puducherry on 31.12.2017.

7.In such view of the matter, a direction as prayed for by the petitioner cannot be granted. This Court does not have the power to direct the Police to alter the FIR, since investigation is the exclusive preserve of the executive and the judiciary cannot interfere as held by the PRIVY COUNCIL in King Emperor Vs. Khwaja Nazir Ahmad [(1943-44) 71 IA 203], which judgment has been approved by a catena of judgments of the Supreme Court.

With the above observation, this petition is closed.

Sd/-

Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

To

1.The Director General of Police,
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Puducherry 605 001.

2.The Inspector General of Police,
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3.The Superintendent of Police [West],
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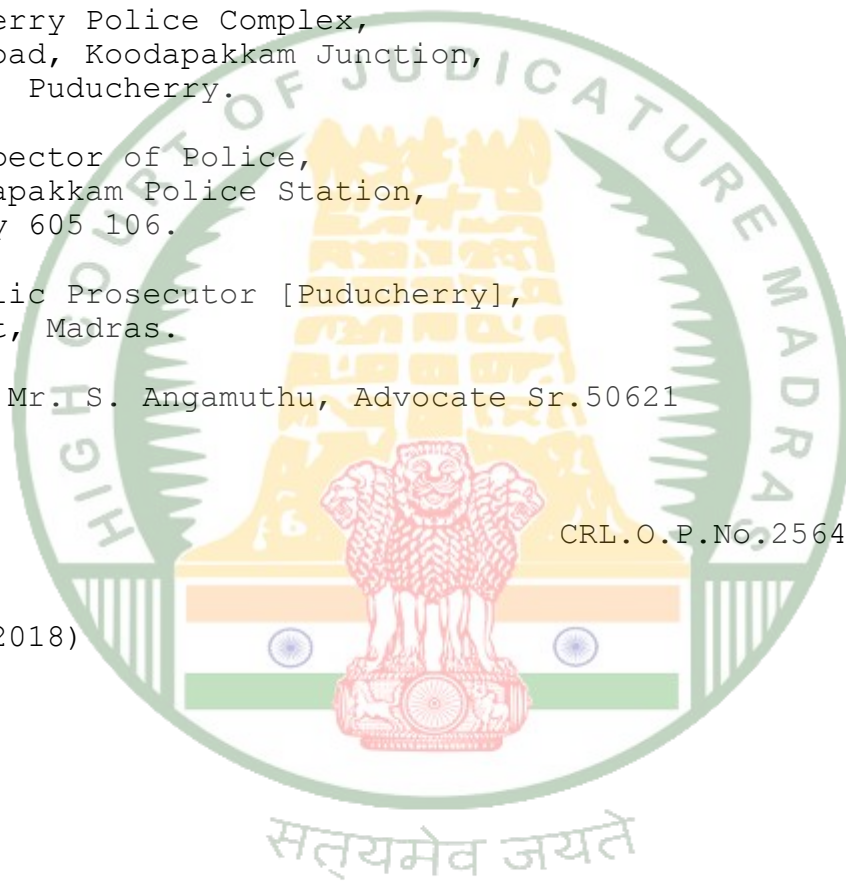
4.The Inspector of Police,
I-1, Nettapakkam Police Station,
Puducherry 605 106.

5.The Public Prosecutor [Puducherry],
High Court, Madras.

+ 1 cc to Mr.S. Angamuthu, Advocate Sr.50621

CRL.O.P.No.25644 of 2017

MR(CO)
EU(13/08/2018)



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