

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

CrI.O.P. No.20112 of 2016

D.Balapathira Gounder

.. Petitioner

vs.

1.State represented by
The Sub Inspector of Police
Thazhambhur Police Station
Kancheepuram District.

2.The Additional Superintendent of Police
Kancheepuram District
Kancheepuram.

3.The Superintendent of Police
CBCID, Kancheepuram District
Kancheepuram.

4.The Tahsildar
Vikkaravandi Taluk Office
Vikkaravandi
Villupuram District.

... Respondents

Prayer:Criminal Original Petition filed under Section 482, Cr.P.C. to pass an order directing the transfer of investigation in Cr.No.74 of 2012 from the file of first respondent to the file of third respondent and further direct the third respondent to re-investigate afresh the case in Cr.No.74 of 2012 in accordance with law and submit a final report before the concerned jurisdictional Magistrate Court.

For petitioner
For Respondents

Mr.R.Natarajan
Mr.C.Raghavan
Government Advocate [CrI.Side]

ORDER

This Criminal Original Petition has been filed to pass an order directing transfer of investigation in Cr.No.74 of 2012 from the file of the first respondent to the file of the third respondent and further direct the third respondent to re-

investigate afresh the case in Cr.No.74 of 2012 in accordance with law and submit a final report before the concerned jurisdictional Magistrate Court.

2. On the complaint lodged by Suguna, the respondent police registered a case in Cr.No.74 of 2012 on 10.02.2012 under Section 174 Cr.P.C., pursuant to the death of one Ganesan. Not satisfied with the investigation conducted by the police, the father of Ganesan has filed the present application for further investigation of the case.

3. Heard Mr.Natarajan, learned counsel for the petitioner, who submitted that, the police ought not to have registered the FIR based on the statement given by the wife of the deceased, who was nowhere in the vicinity of the occurrence.

4. Per contra, learned Government Advocate (Crl.Side) submitted that the investigation was conducted in Cr.No.74 of 2012 and a closure report was filed before the jurisdictional Tahsildar on 15.03.2012.

5. This Court called for the records and perused the same.

6. On a perusal of the records, it is seen that, the deceased Ganesan and his two friends, viz., Rajamani and Murugan, were coolie workers. On 09.02.2012, around 1.00 in the afternoon, the trio went to a nearby pond for fishing. They were not able to get any catch. However, they decided to have bath in the pond. While the three were having bath, Rajamani and Murugan did not find Ganesan and therefore, the duo dived inside in search of Ganesan. When they did not find Ganesan, they made a hue and cry and hearing their call, the local people jumped inside and found that Ganesan was trapped in the mud on the floor bed and he had died. The body of Ganesan was fished out with the help of the local people and post-mortem was conducted. The post-mortem report clearly shows that the death of Ganesan was on account of "asphyxia due to drowning". There was no other external injury found on the body of Ganesan for this Court to doubt as to whether he was assaulted and pushed into water.

7. As regards the contention of Mr.Natarajan that the police ought not to have registered the FIR based on Suguna's statement, there is much force in the said submission, inasmuch as the police should have obtained complaint either from Murugan or Rajamani. This lapse, by itself, will not lead to the conclusion that there is some foul play in the death of Ganesan, especially when there are no external injuries found by the post-mortem Doctor. In such view of the matter, this Court is of the view that this is not a fit case to order further investigation.

Accordingly, this petition is dismissed. A copy of the closure report has been furnished to Mr.Natrajan, learned counsel for the petitioner across the Bar.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

gms

To

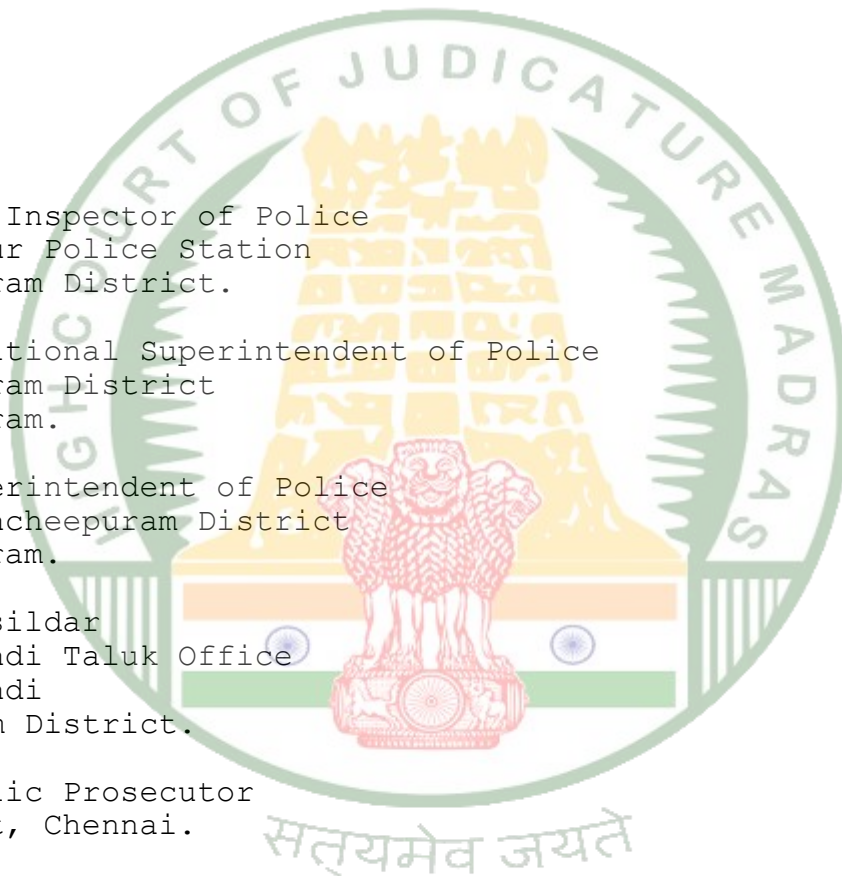
1.The Sub Inspector of Police
Thazhambhur Police Station
Kancheepuram District.

2.The Additional Superintendent of Police
Kancheepuram District
Kancheepuram.

3.The Superintendent of Police
CBCID, Kancheepuram District
Kancheepuram.

4.The Tahsildar
Vikkaravandi Taluk Office
Vikkaravandi
Villupuram District.

5.The Public Prosecutor
High Court, Chennai.



Crl.O.P. No.20112 of 2016

SSV(CO)
SP(09/07/2018)

WEB COPY