

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.15742 of 2018

A.N.Elayaperumal

... Petitioner

Vs

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

2. The Inspector of Police,
Kallakurichi Police Station,
Villupuram District.

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C seeking a direction to the respondents herein to send the blood samples of deceased Kumudha to conduct the DNA test collected concerned in Crime No.318 of 2018 on the file of the 2nd respondent within the stipulated time that may be fixed by this Hon'ble Court and to complete the investigation to file the final report.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.C.Raghavan,
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed seeking a direction to the respondents to send the blood samples of deceased Kumudha to conduct DNA test collected in Crime No.318 of 2018 on the file of the 2nd respondent, complete the investigation and file a final report.

2. One Kumudha was murdered on 29.04.2018, in connection with which, a case in Crime No.318 of 2018 under Sections 294 (b), 302 and 506(ii) IPC has been registered and investigation is in progress. While so, two suits viz., O.S.No.42 of 2011 and OS.No.170 of 2009 have been filed for partition and other civil reliefs, in which the deceased Kumudha is a party and the petitioner is challenging the paternity of one Geethesan, who claims himself to be the son of Kumudha. Therefore, the petitioner has filed the present petition for a direction to the respondent police to conduct DNA profiling in order to find out the paternity of Geethesan.

3. Mr.C.Prabakaran, learned counsel for the petitioner submitted that Geethesan was not born to the deceased Kumudha and therefore, DNA profiling has to be done in order to test the paternity of Geethesan.

4. In the opinion of this Court, Geethesan is not an accused in Crime No.318 of 2018. The police machinery cannot be used to conduct DNA test in matters relating to partition suit, which is pending before the Civil Court. It is always open to the parties in the Civil Suit to dispute the paternity of the litigants and take steps to conduct DNA profiling.

5. Hence, this petition is dismissed with liberty to the petitioner to work out his remedy in the manner known to law. However, the respondent police is directed to proceed with the investigation in Crime No.318 of 2018 and complete the investigation as expeditiously as possible.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Inspector of Police,
Kallakurichi Police Station,
Villupuram District.

3.The Public Prosecutor,
High Court, Madras. सत्यमेव जयते

+ 1 cc to Mr. C. Prabakaran, Advocate Sr.38363

Cr1.O.P.No.15742 of 2018

(CO-KS)
EU(03/07/2018)