

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.04.2018
PRONOUNCED ON : 18.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE P.N. PRAKASH

Criminal Original Petition No.7251 of 2016

Rajabathar

... Petitioner

Vs.

1.The Commissioner of Police
Greater Chennai
Vepery
Chennai 600 007.

2.The Inspector of Police
K.1 Sembiam Police Station
Chennai 600 011.

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C., to direct the first respondent to transfer the case in Cr.No.50 of 2015 on the file of the second respondent herein to CBCID, Chennai.

For Petitioner : Mr.R.Sankarasubbu
For Respondents: Mrs.Kritika Kamal, P.
Government Advocate (Crl.Side)

ORDER

This petition has been filed to direct the first respondent to transfer the case in Cr.No.50 of 2015 on the file of the second respondent herein to CBCID, Chennai.

2. On 10.12.2014, one Kothandan, aged about 65 years residing at 9/12 Binny Mill Quarters, Perambur went on pilgrimage to Sholinghur Temple in Vellore District and did not return home. Therefore, his brother Rajabathar gave a complaint on 05.01.2015, based on which, CSR No.16 of 2015 was initially registered and after preliminary enquiry, a regular case in K.1 Sembiam Police Station Cr.No.50 of 2015 for "man missing" was registered on 09.01.2015 and investigation was taken up by the police. Not satisfied with the investigation, Rajabathar has

filed the present application for transferring the case in Cr.No.50 of 2015 from the file of K.1 Sembiam Police Station to the file of the CB CID for a thorough investigation.

3. Heard Mr.R.Sankarasubbu, learned counsel for Rajabathar and Mrs.Kritika Kamal, learned Government Advocate [Crl.Side] for the State.

4. During investigation, it came to light that Kothandan had contracted two marriages, namely that he got married to one Vanaja in the year 1975 and subsequently, started living with one Vasuki. Rajabathar filed HCP No.852 of 2015 for a direction to the respondent police to produce the body of his brother Kothandan and this Court, by order dated 05.01.2016, closed the Habeas Corpus Petition with a direction to the police to proceed with the investigation in Cr.No.50 of 2015 and keep Rajabathar informed of any development/breakthrough in the case.

5. It appears that an unidentified body was found near the Perambur Railway Station on 14.12.2014 and the Railway Police registered a case in Cr.No.215 of 2014 under Section 174 Cr.P.C. and conducted post-mortem on the body of the person. The details about this unidentified body and its features were posted in the Crime and Criminal Tracking Network and Systems [CCTNS] of the police. Matching was done by the respondent police and it was found that the physical features and the other identification marks of Kothandan tallied with the dead body concerned in the Railway Police Cr.No.215 of 2014.

6. It is the case of Rajabathar that his brother left the home on 10.12.2014 for Sholinghur and the body was found on 14.12.2014 near the Railway track. Vanaja, W/o of Kothandan and her son Nandakumar identified the photos taken by the Railway police and confirmed that the deceased was Kothandan. Vanaja applied for Death Certificate from the Corporation of Chennai and obtained the same on 10.07.2015. Since there is a civil dispute between Rajabathar and Vanaja with regard to certain emoluments receivable from the erstwhile employer of Kothandan, Rajabathar is disputing the identity and contending that the police have not solved the case in Cr.No.50 of 2015.

7. Mr.Sankarasubbu, learned counsel submitted that in paragraph 5 of the Status Report filed by the police, it is stated that the police had examined one Neelakandan on 12.01.2015, who is said to have seen Kothandan near Sholinghur temple. If the case of the police is that the body was recovered on 14.12.2014, Neelakandan would not have seen Kothandan on 12.01.2015. When this discrepancy was pointed out to the Government Advocate, she produced the original Case Diary and submitted that in the Status Report, the date has been wrongly mentioned as 12.01.2015 instead of 13.12.2014.

8. This Court perused the Case Diary and also the statement of Neelakandan in original, wherein, he has stated that he had seen Kothandan on 13.12.2014.

9. Hence, this Court has no reasons to reject the plea of the learned Government Advocate that the reference to 12.01.2015 in the Status Report is a typographical error. On a complete perusal of the Case Diary, this Court finds that the wife and son of Kothandan have clearly identified the body and they have accepted that he has died in the railway accident and have reconciled to it. On account of oblique motive, Rajabathar is wanting to keep this issue alive.

In the result, this petition is devoid of merits and the same is dismissed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

gms

To

1.The Commissioner of Police
Greater Chennai
Vepery
Chennai 600 007.

2.The Inspector of Police
K.1 Sembiam Police Station
Chennai 600 011.

3.The Public Prosecutor
High Court, Madras.

+1 CC to Mr.R.Sankarasubbu, Advocate sr 29304.

SKV(CO)
SP(07/05/2018)