



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2018

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Cr1 OP(MD)No.7704 of 2016

and

Cr1MP(MD)No.3959 of 2016

R.Saroja

... Petitioner

Vs.

1.The Home Secretary,
Secretariat,
Saint George Fort,
Chennai - 600 009.

2.The Director General of Police,
Office of the Director General of Police
Kamarajar Salai, Chennai - 600 004.

3.The Superintendent of Police,
CBCID, South Zone,
No.220 Pantheon Road,
Egmore, Chennai 600 008.

4.The District Superintendent of Police,
Office of the Superintendent of Police,
Tirunelveli District.

5.The Inspector of Police,
Palavaoor Police Station,
Tirunelveli District.

6.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Cherenmahadevi Division,
Cherenmahadevi,
Tirunelveli District.

...Respondents

PRAYER:- Petition filed under Section 482 of Criminal Procedure Code, to direct the respondent No.2 to withdraw the case in Cr. No.285 of 2015 pending on the file of the respondent No.5 and entrust the same to the respondent No.3 for fair investigation and to file the final report within a time frame fixed by this Honourable Court .



For Petitioner : Mr.R.Karunanidhi
For Respondents : Mrs.S.Bharathi,
1 to 6 Government Advocate

WEB COPY

ORDER

This petition has been filed for a direction to transfer the investigation pending on the file of the fifth respondent in Crime No.285 of 2015.

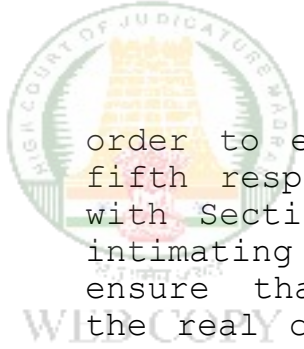
2.The petitioner is the mother of the deceased Ponthamarai Selvan. He developed affair with a girl, who belongs to upper class community. Coming to know of the same, the accused persons disrobed the son of the petitioner in a public place and insulted him in the presence of the general public by making a false complaint against him, as if he has stolen a cellphone. Subsequently, the accused persons conducted Kangaroo Court and forced the son of the petitioner to pay Rs.10,000/-. The incident humiliated the petitioner's son and out of depression, he committed suicide on 09.11.2015.

3.A complaint was given by the petitioner's husband before the fifth respondent Police naming the accused persons. However, the fifth respondent registered an FIR in Crime No.285 of 2015, under Section 174 of CrPC on the ground that the death is a suspicious death.

4.The fifth respondent did not conduct any investigation and therefore, the present petition has been filed for transfer of investigation.

5.The fifth respondent has filed a Counter affidavit stating that immediately after the registration of FIR, he prepared a rough sketch and observation mahazar in the presence of the witnesses and also enquired and took statements form several witnesses. The fifth respondent had also sent the body of the deceased person for postmortem and obtained a postmortem report. The fifth respondent is awaiting the chemical analysis report from the Forensic Department and after receiving the report, investigation will be completed and final report will be filed before the concerned jurisdictional Magistrate.

6.In this case, admittedly the FIR was registered under Section 174 of CrPC. Therefore, necessarily, the procedure contemplated under Section 174 of CrPC has to be complied with. The CD file has been submitted before this Court and it is seen that the fifth respondent has not even intimated about the registration of FIR under Section 174 of CrPC to the nearest Executive Magistrate in



order to enable the Executive Magistrate to hold an inquest. The fifth respondent has conducted an investigation without complying with Section 174 (1) and 174 (2) of CrPC. The entire purpose of intimating the Executive Magistrate under Section 174 of CrPC is to ensure that an independent agency conducts an inquest and finds out the real cause of death. Such an inquest report submitted by the Executive Magistrate shall also form part of the investigation conducted by the Police. Such an inquest will also have a material impact on the investigation conducted by the Police. However, unfortunately, in this case, the matter has not been intimated to the Executive Magistrate.

7. Taking into consideration the facts and circumstances of the case, the entire investigation in Crime No.285 of 2015 is transferred from the file of the fifth respondent to the file of the fourth respondent. The fourth respondent namely, The District Superintendent of Police, Office of the Superintendent of Police, Tirunelveli District, on receipt of the entire CD file shall proceed in accordance with Section 174 of CrPC and also conduct a reinvestigation in this case by examining all the witnesses and also take into consideration the inquest report that will be filed by the Executive Magistrate and thereafter complete the investigation as expeditiously as possible and file a final report.

8. The fifth respondent is directed to handover the entire file in Crime No.285 of 2015 to the fourth respondent, within a period of one week from the date of receipt of the copy of this order, to enable the fourth respondent to proceed further in accordance with the directions given by this Court.

9. The criminal original petition is disposed of with the above direction. Consequently, CrI MP(MD) No.3959 of 2016 is closed.

Sd/-

Assistant Registrar (CrI Side)

// True Copy //

Sub Assistant Registrar (CS-I)

To

1. The Home Secretary,
Secretariat,
Saint George Fort,
Chennai - 600 009.



2.The Director General of Police,
Office of the Director General of Police
Kamarajar Salai, Chennai - 600 004.

3.The Superintendent of Police,
CBCID, South Zone,
No.220 Pantheon Road,
Egmore, Chennai 600 008.

4.The District Superintendent of Police,
Office of the Superintendent of Police,
Tirunelveli District.

5.The Inspector of Police,
Palavaoor Police Station,Tirunelveli District.

6.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Cherenmahadevi Division,
Cherenmahadevi,
Tirunelveli District

7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC To Mr.R.Karunanidhi, Advocate SR. NO. 82212

Cr1 OP(MD)No.7704 of 2016
04.09.2018

dsk
TR/RSK/SAR-I (12.10.2018) 4P 9C