



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P. (MD) No.16711 of 2018

WEB COPY

Selvi

... Petitioner

-vs-

1.The Superintendent of Police,  
Kanyakumari District at Nagercoil.

2.The Inspector of Police,  
Palugal Police Station,  
Kanyakumari District.

...Respondents

**Prayer:** Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to transfer the investigation of Crime No.65 of 2018 from the file of the second respondent to some other unbiased police or competent agency to conduct fair and impartial investigation in accordance with law.

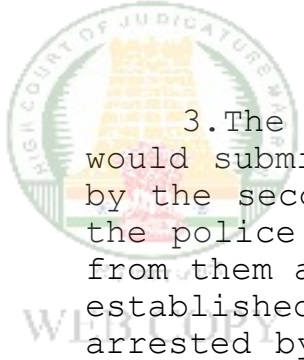
For Petitioner : Mr.K.P.Narayanakumar

For Respondents : Mrs.S.Bharathi  
Government Advocate (Crl. Side)

### ORDER

This petition has been filed seeking for transfer of investigation in Crime No.65 of 2018 pending on the file of the second respondent.

2.The learned counsel for the petitioner would submit that the petitioner and her husband Late.Thangaraj were going near Alatthancode Pond on 22.06.2018 at about 05.00pm., and at that time A1 to A3 attacked her husband with deadly weapons and fled away from the scene of occurrence. Initially on the complaint given by the petitioner, the second respondent registered Crime No.65 of 2018 for an alleged offence under Sections 294(b), 323 and 307 IPC. Subsequently, the petitioner's husband died in the hospital on 02.07.2018. Therefore, the First Information Report was altered by adding the offence under Section 302 IPC. The learned counsel for the petitioner would submit that except A1, the respondent police did not even arrest the other two accused persons, who were also indulged in the attack against the petitioner's husband. The learned counsel also submitted that the second respondent has not investigated the case properly and effective steps are taken to delete the names of A2 and A3 from the final report.



3.The learned Government Advocate (Crl.side), on instructions, would submit that the investigation is conducted in a proper manner by the second respondent. The learned counsel further submits that the police have examined independent witnesses and taken statements from them and the involvement of A2 and A3 in the crime has not been established. The learned counsel would further submit that A1 was arrested by the respondent police. Therefore, there are no grounds to transfer the investigation in this case.

4.This Court has carefully considered the submissions made on either side.

5.It is seen from the records that the incident happened when the petitioner and her husband were going together on 22.06.2018. Both in the complaint as well as in the statement given before the police, the petitioner has specifically stated about the overt act of A2 and A3 and their involvement in the offence. However, the respondent police seems to have disregarded the statement given by the petitioner and seem to be relying more on the statement given by other witnesses. When the petitioner, who is the eye witness available in the scene of occurrence, specifically talks about the involvement of A2 and A3 and the overt acts committed by them, it is strange that the second respondent does not want to take it into consideration in the course of investigation. The second respondent has not even taken any steps to take A2 and A3 into custody in this case.

6.In the facts and circumstances of the case, this Court finds that this case needs to be investigated by a higher official. Therefore, the investigation is transferred from the file of the second respondent to the file of the Deputy Superintendent of Police, Thakkalai. The second respondent is directed to hand over the entire case diary to the Deputy Superintendent of Police, Thakkalai, within a period of ten days from the date of receipt of a copy of this order. The Deputy Superintendent of Police is directed to conduct a fresh investigation in this case and complete the investigation as expeditiously as possible.

7.This Criminal Original Petition is disposed of with the above direction.

Sd/-  
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

<https://hcservices.ecourts.gov.in/hcservices/>

1.The Superintendent of Police,  
Kanyakumari District at Nagercoil.



2.The Inspector of Police,  
Palugal Police Station,  
Kanyakumari District.

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

**Copy To:**

The Deputy superintendent of Police,  
thakkalai, Kanyakumari District.

+1CC to Mr.K.P.Narayanakumar, Advocate, SR.No.85261

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RMK  
ES/SKN/RSK/SAR 4/11.10.2018/3P/6C