



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P.(MD)No.3606 of 2013

Celine Suja

... Petitioner

Vs.

- 1.The Superintendent of Police,
Kanyakumari District,
Nagercoil.
- 2.The Inspector of Police,
Thuckalay Police Station,
Thuckalay, Kanyakumari District.
- 3.Mehendran
The Inspector of Police,
Thuckalay Police Station,
Thuckalay, Kanyakumari District.
- 4.Dennis
Special Sub-Inspector of Police,
Thuckalay Police Station,
Thuckalay, Kanyakumari District.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to transfer the investigation of Cr.No.548 of 2011 on the file of Thuckalay Police Station to some other independent agency or officer not below the rank of Superintendent of Police and to complete the same and file a final report within a reasonable time to be stipulated by this Court.

For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.A.Robinson

Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed to transfer the investigation of Crime No.548 of 2011 on the file of Thuckalay Police Station to some other independent agency or officer not below the rank of Superintendent of Police and to complete the same and file a final report within a reasonable time to be stipulated by this Court.



2.The petitioner herein is the defacto complainant in Crime No.548 of 2011 on the file of the Thuckalay Police Station. The First Information Report was registered for the offence under Section 174 Cr.P.C. Now, the defacto complainant approached this Court by way of filing this petition to change the investigation agency to the level of Superintendent of Police.

3.Today, when the matter is taken up for hearing, the learned Government Advocate (Criminal Side) appearing for the State filed a status report, in which, he submitted that the doctor, who conducted an autopsy gave a final opinion as follows:

" the deceased would appear to have died of drowning, as the postmortem findings are consistent with that of death due to drowning. Examination of viscera has not detected Ethyl alcohol or other poison". Thereby, the case has been closed without following any consequence of law.

4.Now, on go through the submissions made by the learned counsel appearing for the petitioner, it reveals that on 26.06.2011 at about 11.00 a.m the petitioner's husband left along with one Thirukumar, S/o.Muthusamy, who was arrayed as A1 in this case. Thereafter, the body of the petitioner's husband was found, except the above averment, nothing was mentioned with regard to the death of the petitioner's husband. After registering of the case, the first respondent, who is the Superintendent of Police, Kanyakumari District, Nagercoil has appointed the third respondent as the Investigation Officer in this case with a direction to investigate the case and file a final report. After conducting investigation by the third respondent as per the order of the first respondent, final opinion was obtained from the doctor, who conducted an autopsy. Since the opinion given by the expert, we cannot easily thrown away the said report.

5.According to the doctor, the death of the deceased would cause only by drowning after consuming the alcohol. So, the said result indicates that the petitioner's husband was died only due to the drowning and not in other mode. Accordingly, the changing of investigating officer does not give any fruitful result in the process of investigation, which was already completed by the third respondent.

6.Therefore, considering the facts and circumstances of the case, this Court is not inclined to allow this application. Accordingly, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar



To

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

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

3.Mehendran
The Inspector of Police,
Thuckalay Police Station,
Thuckalay, Kanyakumari District.

4.Dennis
Special Sub-Inspector of Police,
Thuckalay Police Station,
Thuckalay, Kanyakumari District.

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

+1cc to Mr.N.DILIP KUMAR,Advocate,SR. 47906

Cr1.O.P. (MD) No.3606 of 2013
12.02.2018

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