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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.20656 of 2015

Mr.T.Jayapal

..... Petitioner

Vs.

1. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai 600 007.
2. The Deputy Commissioner,
Ambattur, Chennai.
3. The Inspector of Police,
T-1 Police Station, Ambattur,
Chennai 600 053.
4. The Superintendent of Police,
C.B.CID, Egmore,
Chennai 600 008

... Respondents

Common Prayer: Criminal Original Petition has been filed to call for the records in Crime No.769 of 20015 pending on the file of the 3rd respondent and transfer the investigation to the 4th respondent to conduct afresh investigation and to lay the charge sheet.

For Petitioner : Mr.N. Senthil Kumar

For Respondent : Mr.Mohammed Riyaz,
Additional Public Prosecutor

ORDER

This petition has been filed seeking for transfer of investigation pending before the 3rd respondent in Crime No.769 of 2015.

2. The petitioner is the father of the deceased. The deceased was working as a Manager in a private company. On



14.04.2015, at about 7.00 a.m, the petitioner received a phone call from the 3rd respondent police and the petitioner was informed that his son was found dead near a bye-pass bridge. The petitioner immediately rushed to the scene of occurrence. An FIR came to be registered in Crime No.769 of 2015 under section 174 of Cr.PC.

3. In the course of investigation, the dead body was sent for post-mortem and a post-mortem was also conducted on 14.04.2015. The post-mortem report that has been filed before this Court speaks about the injuries found on the body of the deceased. There is only one injury that has to be taken into account for the purpose of this case, which is an injury that was found in the upper part of the neck. The viscera report reveals that the death did not occur due to any alcohol or poison. The final report given by the doctor reveals that the deceased has died due to asphyxia.

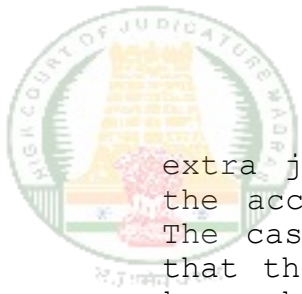
4. The learned Additional Public Prosecutor on instructions submitted that the investigation revealed that the deceased had committed suicide and this fact was known to the accused persons, who did not reveal the same and therefore, the FIR has been altered for an offence under section 176 of IPC. The learned counsel further submitted that the investigation is still pending.

5. The learned counsel for the petitioner submitted that it cannot be a case of suicide for the simple reason that the injury pointed out in the final opinion given by the doctor can be caused either due to strangulation or due to hanging. In the present case, the body of the deceased was admittedly found in the road. Therefore, prima facie it cannot be construed as a case of suicide.

6. The learned counsel for the petitioner further submitted that the respondent police have not conducted the investigation effectively and the manner in which the investigation is progressing, will ultimately end up in a final report, which could not be sustained in the eyes of law. The learned counsel therefore submitted that the investigation is required to be conducted by some other agency or atleast by an higher ranked police officer, in order to bring out the truth behind the death of the petitioner's son.

7. This Court has carefully considered the submissions made on either side and also the materials placed on record.

8. One thing which is apparent in this case is that the respondent police is trying to build up a case by altering the F.I.R to an offence under Section 176 IPC, purely based on the



extra judicial confession, which is said to have been made by the accused persons before the Village Administrative Officer. The case that is sought to be developed by the prosecution is that the deceased had committed suicide and the accused persons knew about it and they brought the body of the deceased person and placed it in the road near his two-wheeler. This is the only material that has been collected by the respondent police till date for an F.I.R which was registered in the year 2015.

9. This Court is not convinced with the manner in which the investigation is progressing in this case. The final opinion given by the doctor shows that the deceased had died of asphyxia due to constrictive force around the neck. This injury which can be caused due to strangulation or throttling of the neck. In this case, the deceased was admittedly found in the road near his two-wheeler. Therefore, on a prima facie view of the case, this Court is not able to convince itself that the deceased died by committing suicide. This case really requires serious investigation in order to ensure that the truth is brought out and if in case the deceased has been murdered, the real accused persons are brought to book.

10. In view of the above reasons, this Court is of the considered view that the investigation which is now pending on the file of the 3rd respondent has to be transferred to the file of the CBCID, which is an independent agency. The 3rd respondent is directed to hand over the entire case dairy to the Superintendent of Police, CBCID, Chennai, within a period of two weeks from the date of receipt of copy of this order. Immediately on receipt of the Case Dairy, the Superintendent of Police, CBCID shall hand over the investigation to an officer not below the rank of Inspector in CBCID. Thereafter, the investigation shall proceed effectively and a final report shall be filed before the concerned Court as expeditiously as possible.

11. This Criminal Original Petition is disposed of with the above directions.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



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+1cc to M/s.N.Senthil kumar, Advocate Sr.60431

Cr1.O.P.No.20656 of 2015

rsi[co]
srg 06/08/2019