

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.26257 of 2013

Munisamy

... Petitioner/Defacto-
Complainant

Vs.

1. The Inspector of Police (Crime),
Gudiyatham Town Police Station,
Vellore District,
[Crime No.577 of 2013]

2. The Inspector of Police,
District Crime Branch,
Vellore,
Vellore District.

... Respondents/Complainants

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to pass an order directing the transfer of the above case in Crime No.577 of 2013 from the file of the first respondent police, viz., the Inspector of Police, Gudiyatham Town Police Station, Vellore District to the file of the second respondent herein viz., the Inspector of Police, District Crime Branch, Vellore, Vellore District or to the file of any other competent investigating Agency.

For Petitioner : Mr.G.Vinodh Kumar

For Respondents : Mrs.S.Thankira,
Government Advocate [Crl.Side]

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O R D E R

Criminal Original Petition is filed to transfer of the case in Crime No.577 of 2013 from the file of the first respondent police, viz., the Inspector of Police, Gudiyatham Town Police Station, Vellore District to the file of the second respondent herein viz., the Inspector of Police, District Crime Branch, Vellore, Vellore District or to the file of any other competent investigating Agency.

2.The petitioner is the father of the deceased Anandan. The said Anandan was having relationship with one Susheela, who is a widow and a resident of Kallur Village and they were living together for more than 15 years. Taking advantage of the petitioner's son being handicapped, he availed a loan from a Bank and the said loan was spent by him to the said Susheela. Thereafter, there was a small dispute between the said Anandan and his living together partner Susheela with regard to the repayment of the loan. Out of her earlier marriage the said Susheela had two sons namely Sankar and Rajini and one daughter namely Vimala.

3.The specific case of the petitioner is that on 02.07.2013, the said Sushseela along with her children done Anandan to death and had thrown the body of the petitioner's son in a desolated well and thereafter, the said Susheela had gone to Coimbatore.

4.On 06.07.2013, the body of the said Anandan was noticed by one Sampath and one Selvaraj who in turn complained the same to the Village Administrative Officer, Gudiyatham and the Village Administrative Officer had given a complaint to the police. Based on his complaint, a case in Crime No.577 of 2013 was registered under Section 174 Cr.P.C. for suspicious death. Thereafter, the body was lifted from the well in the presence of the witnesses. Inquest was conducted and the body was sent to post mortem and investigation was carried out and after detailed enquiry the first respondent had dropped the case as "Further Action Dropped" and had served the RCS Notice to the Village Administrative Officer of Gudiyatham and had filed the closure report dated 25.10.2013.

5.The contention of the learned counsel for the petitioner is that the above said Susheela, her sons and daughter had murdered the petitioner's son Anandan and thrown the body in the defused well. The police in complacent, had not taken any action against them. Hence, he filed the above petition on 08.10.2013.

6.The learned counsel appearing for the petitioner further contended that first respondent had filed the status report stating that a detailed investigation has been conducted and thereafter the case has been closed as "Further Action Dropped". The petitioner drew the specific attention of this Court in paragraph 13 of the Status report filed by the first respondent. In paragraph 13, it is mentioned that the case has been closed as "Further Action Dropped", but the said RCS Notice has been served to the jurisdictional Magistrate on 25.10.2013. No reason for the delay has been given.

7. Further the police was aware that the petitioner is the father of the deceased and he had made several representations and none of the representations were properly considered and no investigation has been conducted, though the police was aware that the petitioner was calling upon them regularly. The respondents failed to inform the petitioner i.e. father of the deceased about Further Action Dropped. The petitioner was not aware of the same.

8. The learned Government Advocate [CrI. Side] filed the status report and submitted that totally 22 witnesses have been examined in this case. Of which LW22 Dr. Maran, Government Hospital, Gudiyatham, who conducted autopsy on the body of the deceased Anandan, issued post mortem report dated 08.07.2013 and opined that "the death due to head injury, vital organ brain".

9. Further the Village Administrative Officer has been examined in this case and concubine of the deceased namely Susheela and her daughter Vimala and her sons Rajini and Sankar have been examined in this case.

10. This Court perused the Post-Mortem Report, Inquest Report and the Observation Mahazar. From the Observation Mahazar, it is seen that the well is about 40 feet depth which is an unused dry well with the circumference of 20 feet, with shrubs and stones.

11. The learned counsel appearing for the petitioner submits that the RCS Notice has not been served to him. The respondents knowing very well that the petitioner is the father of the deceased and they are bound to serve the RCS notice to him. The respondents police without conducting proper enquiry and closed the investigation in this case as "Further Action Dropped". On 29.07.2013 the petitioner made a representation to the District Collector and to the Superintendent of Police. Petitioner being an aggrieved person, the RCS notice ought to have been served to him. He further submitted that in the Death Report the cause of death has been mentioned as drowning, which is contra to the conclusion. Further, from the Observation Mahazar, it is seen that the body was in supine position, there seems to be some doubt. The closure report copy is served today to the learned counsel for the petitioner.

12.In view of "Further Action Dropped", this Criminal Original Petition stands dismissed. However, the petitioner is at liberty to file a protest petition before the concerned Court and to pursue the case in accordance with law.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police (Crime),
Gudiyatham Town Police Station,
Vellore District,
[Crime No.577 of 2013]
2. The Inspector of Police,
District Crime Branch,
Vellore,
Vellore District.
3. The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.G.Vinodh Kumar, Advocate, S.R.No.64347

AD(CO)
SSM(29/08/2019)

Cr1.O.P.No.26257 of 2013

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