

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.08.2018

PRONOUNCED ON : 01.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

Cr1.OP.No.8280 of 2013

Sundarambal ... Petitioner

Vs.

1. The Superintendent of Police,
Perambalur District,
Perambalur.

2. The Inspector of Police,
Perambalur Police Station,
Perambalur.

3. The Inspector of Police,
CBCID, Perambalur,
(Crime No.973/2012)

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to transfer the investigation of FIR in Crime No.973 of 2012 on the file of the second respondent herein to the file of the third respondent herein and direct the third respondent herein to investigate the suspicious death of the petitioner's son Achimuthu and to file final report thereon within the time as may be stipulated by this Hon'ble Court.

For Petitione : Mr.M.Santhana Raman
For Respondents : Mr.T.Shunmugarajeshwaran for R1
Government Advocate (Cr1.Side)

ORDER

This petition has been filed to transfer the investigation in Crime No.973 of 2012 from the second respondent to the third respondent.

2. Heard, Mr.M.Santhana Raman, learned counsel for the petitioner and Mr.T.Shunmugarajeshwaran, the learned Government Advocate(Cr1.Side) for the respondents.

3. The learned counsel for the petitioner has submitted that the petitioner is the mother of the deceased Achimuthu. He further submitted that the said Achimuthu served in Indian Army for 29 years and retired from service. He further submitted that the said Achimuthu had a wife and four children and they were residing in a separate house. He further submitted that on 14.08.2012, the said Achimuthu died in a suspicious circumstance and with regard to the same, one Dinesh, who is the brother-in-law of the said Achimuthu gave a complaint before the second respondent and based on the said complaint, a case was registered in Crime No.973 of 2012 under Sections 279, 337, 304-A of IPC. He further submitted that as per the said FIR, the said Achimuthu and his wife Devi had gone to an ear boring ceremony on 12.08.2012 in a two wheeler and they fell down and sustained injuries and he was admitted in the private hospital and subsequently died on 14.08.2012. He further submitted that as per the FIR, the said Achimuthu was in an unconscious condition and in such a case, instead of taking him to the hospital, he was taken to the house and only on the next day, he was admitted in the hospital and the said circumstance creates a suspicion. He further submitted that the said Achimuthu informed the petitioner that his wife is frequently picking up quarrel with him and belittling him and taking money from his purse and hence she is having a doubt that the said Devi and her brother might have committed murder. He further submitted that the petitioner had sent a representation to the respondents but they have not taken any steps and hence she filed a private complaint before the Judicial Magistrate, Perambalur to forward the said complaint to the third respondent under Section 156(3) Cr.P.C., but the learned Judicial, has returned the same by saying that already an FIR has been registered. He further submitted that the second respondent has not properly investigated the case and hence the investigation has to be transferred to the third respondent.

4. Per contra, the learned Government Advocate (Cr1.Side) has submitted that based on the complaint given by one Dinesh, the second respondent has registered a case in Crime No.973 of 2012 under Sections 279, 337 and 304-A of IPC and took the matter for investigation. He further submitted that the investigation reveals that on 12.08.2012, the deceased Achimuthu and his wife Devi went in a two wheeler for attending an Ear boring Ceremony and at that time, the deceased consumed liquor and driven the two wheeler in a rash and negligent manner and hit against a tree and fell down and in the said accident, both the deceased and his wife Devi sustained injuries. He further

submitted that the hospital records would show that the deceased was driving the vehicle after consuming liquor. He further submitted that the second respondent had investigated the matter in a fair, proper and impartial manner. He further submitted that the deceased, when he was serving in the army, had sent a complaint in the month of March 2011 to the District Collector, Trichy, stating that his brother Mr.Selvam, who is a lorry driver and his wife Kalai Selvi abused his wife and also threatened to kill her. He further submitted that the deceased also lodged a complaint before the Sub-Inspector of Police, Lalgudi Police Station, Trichy District on 21.12.2009 stating that his parents and his brother and his brother's wife frequently indulged in quarrels with his wife and that being so, the contention of the petitioner that the deceased made a complaint against his wife to the petitioner cannot be true and therefore he prayed to dismiss the petition.

5. In the representation sent by the petitioner to the respondents, the petitioner has stated that she and her husband have seen the body of the deceased on 14.08.2012 and thereafter the body was disposed of, but she has not sent any representation to the respondents immediately. On the contrary, she has sent the representation only on 11.10.2012 i.e., nearly after two months from the date of death. If really she had a doubt with regard to the death of her son, she should have sent a complaint to the respondents immediately.

6. A perusal of the C.D file shows that in the month of March 2011, the deceased Achimuthu, while he was serving in Army had sent a complaint to the District Collector, Trichy stating that his brother Mr.Selvam and his wife Mrs.Kalai Selvi abused his wife Mrs.A.Devi and also threatened to kill her. Further, on 21.12.2009, he lodged a complaint before the Sub-Inspector of Police, Lalgudi Police Station, Trichy District, stating that when he was away from the house and working in the army, his parents and brother and brother's wife were frequently quarrelling with his wife and for that, the Sub-Inspector of Police, Lalgudi Police Station had issued a receipt. So, it is clear that the deceased while he was serving in the Army made complaints against his parents and brother and brother's wife, stating that they were frequently quarrelling with his wife and that being so, the contention of the petitioner that the deceased made a complaint with her against his wife cannot be accepted.

7. The C.D file also shows that the second respondent had examined about 10 witnesses and all of them stated that the deceased had driven a motor cycle after consuming liquor and hit against a tree and fell down and sustained injuries and because of the said injuries, he died. Hence, this Court is of the view that there is no reason to disbelieve the contentions of the respondents 1 and 2 and therefore, the investigation need not be transferred from second respondent to third respondent. Hence, this petition is liable to dismissed.

8. In the result, this petition is dismissed. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Assistant Registrar(CS iv)

//True Copy//

Sub Assistant Registrar

vv

To

1. The Superintendent of Police,
Perambalur District,
Perambalur.
2. The Inspector of Police,
Perambalur Police Station,
Perambalur.
3. The Inspector of Police,
CBCID, Perambalur,
4. The Public Prosecutor,
High Court, Madras.

Cr1.OP.No.8280 of 2013

A.SK(09/04/2019)