

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8842 of 2013

Tmt.Chinnaponnu

... Petitioner

Vs.

1.State rep. by Superintendent of Police,
Salem,
Salem District.

2.Deputy Superintendent of Police,
Attur, Salem District.

3.Sub Inspector of Police,
Gangavalli Police Station,
Gangavalli,
Salem District.
(Crime No.36 of 2013).

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to transfer the investigation in respect of the murder of the petitioner's son A.Gunasekaran to some other District Crime Branch for investigation and registering the case and taking appropriate action in accordance with the law in respect of Crime No.36 of 2013 on the file of the third respondent Police Station.

For Petitioner : Mr.C.Vediappan for
M/s.C.S.Associates

For Respondents: Mr.Hari Hara Arun Soma Sankar
Government Advocate (Crl. Side)

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O R D E R

This Criminal Original Petition is filed to transfer the investigation in respect of the murder of the petitioner's son A.Gunasekaran to some other District Crime Branch for investigation and registering the case and taking appropriate action in accordance with the law in respect of Crime No.36 of 2013 on the file of the third respondent Police Station.

2.The petitioner is the defacto complainant, who lodged a complaint to the third respondent stating that on 27.01.2013 she went to the house of her son Gunasekaran and he was not there. When her son contacted her over phone asked her to wait and he would joint her soon. But he failed to come back and the petitioner stayed there. On 28.01.2013 at about 06.00 a.m. while she was searching for her son, she was shocked to see her son's dead body in a pit road near Anjalai's Agricultural land along with his bike bearing Registration No.TN 77 B 2917 Bajaj Discover. On seeing the same, she shouted and the neighbours rushed to the spot, she had lodged a complaint to the third respondent police and a case was registered on 28.01.2013 at 01.30 p.m. under Section 174 Cr.P.C., the case was later altered to Section 279 and 304(A) IPC.

3.The contention of the petitioner is that the petitioner had some doubts in the death of her son and the same has been mentioned in the complaint. Further her specific complaint is that the petitioner on enquiry from the neighbours came to know that when the petitioner's son left the house he was carrying Rs.45,000/- (Rupees forty five thousand only) advance amount for purchase of rig vehicle meant for drilling and deepening the bore well, further the petitioner's son had gone with one Raghu of the same village on that day. They left together from the house of the petitioner's son, the said Raghu has not been enquired. The petitioner's suspicion about her son's death is well-found.

4.The third respondent police filed a status report. It is seen that on registration of the case, conducted enquiry, carried out investigation, witnesses were examined and thereafter call details were examined and no clue was found. From the opinion of the Postmortem Doctor and from the Motor Vehicle Inspector, the third respondent came to the conclusion that it was a death due to motor accident and thereafter concluded the investigation and filed the closure report. RCS notice could not be served to the petitioner, since nobody was available in the said address. Thereafter, the RCS notice was pasted on the wall of the petitioner's house on 23.09.2013 in the presence of the Village Administrative Officer and Village Assistant. Thereafter closure report was filed before the Judicial Magistrate No.II, Attur on 30.09.2013.

5.The learned counsel for the petitioner submits that she is residing in that address no such notice was served or pasted on the wall as claimed by the third respondent. He further submits that the said status report dated 01.10.2013 was handed over to the counsel for the petitioner before this Court on 01.03.2019, though the same was filed earlier. The petitioner was not aware of the closure report. It is found that the RCS notice has already been filed by the third respondent before the Judicial

Magistrate No.II, Attur. The petitioner counsel was informed about the closure report only on 01.03.2019.

6.In view of the same, this Court grants liberty to the petitioner to file the protest petition against the closure report and to proceed the case as per law.

7.With the above observation, this Criminal Original Petition stands disposed of.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Superintendent of Police,
Salem,
Salem District.
- 2.The Deputy Superintendent of Police,
Attur, Salem District.
- 3.The Sub Inspector of Police,
Gangavalli Police Station,
Gangavalli,
Salem District.
- 4.The Public Prosecutor,
High Court, Madras.

+1 CC to M/s.C.S. Associates sr 29648

सत्यमेव जयते

Cr1.O.P.No.8842 of 2013

SS(CO)
SP(13/05/2019)

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