

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.7373 of 2019

J.Padmanaban

... Petitioner/
Complainant

Vs.

1. The Inspector General of Police,
West Zone, COP Campus,
Coimbatore - 18.
2. The Superintendent of Police,
Erode District,
Erode.
3. The Inspector of Police,
Perundurai Police Station,
Perundurai.
Erode District.
4. The Inspector of Police,
Crime-Branch Crime Investigation Department,
Erode District,
Erode.

... Respondents

PRAYER :

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the 1st respondent to change the investigation agency in FIR in Crime No.589 of 2016 dated 08.12.2016 from the 3rd respondent to the 4th respondent pending on the file of the 3rd respondent police and to investigate the matter in accordance with law and to file final report before the competent court of law.

For Petitioner : Mr.M.Gnanasekar

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed seeking for a direction to transfer the investigation pending in Crime No.589 of 2016, on the file of the 3rd respondent.

2. The petitioner is the victim in this case. On 07.12.2016, when the petitioner was coming back to his house on his two-wheeler, the petitioner was attacked by three unknown persons with knife and the petitioner sustained serious injuries throughout his body. The petitioner was immediately rushed to the Government Hospital, Perundurai.

3. The 3rd respondent visited the hospital and took the statement of the petitioner. The petitioner explained the entire incident and the previous enmity between him and one Vidula and the specific case of the petitioner was that it was only due to the instigation of one Vidula and her husband, this attack was made against the petitioner. The FIR was registered on 08.02.2016.

4. In spite of registration of the FIR, there was no progress in the investigation and none of the accused persons were arrested in this case. Therefore, the petitioner has approached this Court seeking for change of investigation.

5. The 3rd respondent has filed a status report in this case. In the said status report, he has explained various steps that were taken by the police in the course of investigation and the witnesses who were examined in this case. The 3rd respondent police seems to have come to a conclusion that the petitioner had various disputes with the third parties since he deals with property and a false case has been given against Vidula and on that ground, the respondent police have filed a closure report before the Judicial Magistrate, Perundurai on 14.09.2018 as "Undetected".

6. The learned Additional Public Prosecutor submitted that the respondent police has conducted a proper investigation and the respondent police are not able to find any materials as against the persons named by the petitioner and therefore, the closure report was filed by the respondent police. As and when any materials is made available, the investigation will be reopened by the respondent police.

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

8. The investigation conducted by the 3rd respondent is far from satisfactory. The 3rd respondent even without interrogating

Vidula and her husband Subramaniayan, who according to the petitioner are the persons behind the attack, have proceeded to conclude that someone else could have attacked the petitioner. The respondent police even without finding the actual culprit in this case, has proceeded to file a closure report as "Undetected". This procedure is totally illegal and opposed to the judgment of this Court. The fact remains that the petitioner has sustained very serious injuries since he was attacked with knife and in a case of this nature, filing of closure report, shakes the conscience of the Court.

9. This Court in the judgment in K.Sugumari vs. The Superintendent of Police, Virudhunagar District and others reported in 2018 (2) LW CrI 636 has categorically held that a case which is "Undetected", is only a stage in investigation and there cannot be a closure report filed on that ground. This settled principle has been given a go by the respondent police. This Court, therefore, has no hesitation to transfer the investigation in this case. The closure report filed by the 3rd respondent before the Judicial Magistrate, Perundurai in Cime No.589 of 2016 is hereby quashed.

10. In the result, the investigation in Crime No.589 of 2016 is transferred to file of the Deputy Superintendent of Police, Perundurai. The 3rd respondent namely, the Inspector of Police, Perundurai Police Station, is directed to immediately handover the entire case diary to the Deputy Superintendent of Police, Perundurai within a period of two weeks from the date of receipt of copy of this order. The Deputy Superintendent of Police, Perundurai, shall immediately take-up the investigation and his investigation shall be monitored by the Superintendent of Police, Erode District. The investigation shall be completed as expeditiously as possible and final report shall be filed before the appropriate Court.

11. Accordingly, this Criminal Original Petition stands allowed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ssr

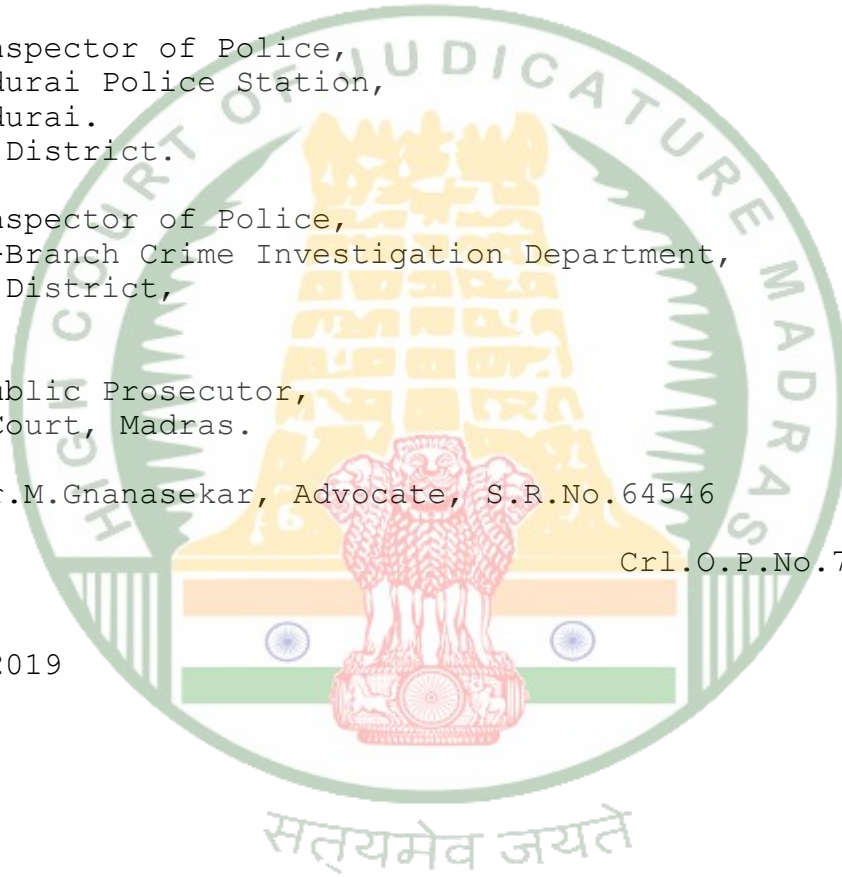
To

1. The Inspector General of Police,
West Zone, COP Campus,
Coimbatore - 18.
2. The Deputy Superintendent of Police,
Perundurai, Erode District.
3. The Superintendent of Police,
Erode District,
Erode.
4. The Inspector of Police,
Perundurai Police Station,
Perundurai.
Erode District.
5. The Inspector of Police,
Crime-Branch Crime Investigation Department,
Erode District,
Erode.
6. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Gnanasekar, Advocate, S.R.No.64546

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VBA(CO)
CS/23/09/2019



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