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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2019

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.10896 of 2019

Mrs.Priya Stalin

... Petitioner

-Vs-

1. State represented by,
The Inspector of Police (Crime),
Ambasamudram Police Station,
Ambasamudram,
Tirunelveli District 627 401.

2.The Superintendent of Police,
O/s.The Superintendent of Police,
Samathanapuram, Palayamkottai,
Tirunelveli District - 627 002.

3.The Director General of Police,
O/s.The Director General of Police,
No.i, Opposite Queen Marys College,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.

4.The Secretary to Government,
Department of Home Affairs,
Secretariat,
Beach Road, Fort St.George,
Chennai - 600 009.

5.The Joint Director,
Central Bureau of Investigation, South Zone,
3rd Floor, E.V.K.Sampath Building,
College Road, Chennai - 600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of mandamus directing to transfer the investigation of the case registered in Crime No.319 of 2013, pending on the file of the 1st respondent to the file of any other competent officer to be deputed by the 5th respondent.



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For Petitioners : Mr.S.Jayakumar
For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor
for R1 to R3

ORDER

This writ petition has been filed seeking for transfer of investigation pending on the file of the first respondent in Crime No.319 of 2013.

2. It is seen from records that on 30.11.2013, in the afternoon, some unidentified persons trespassed into the house of the petitioner's parents and murdered both of them and had stolen 8 1/2 Sovereigns of gold jewellery. Based on the complaint given by one Ashokan, uncle of the petitioner, an FIR came to be registered in Crime No.319 of 2019, for offences under Sections 449, 302 (2 counts) and 379 of IPC, against unknown accused persons.

3. The petitioner, who is the daughter of the deceased parents has filed this writ petition, on the ground that there has been absolutely no progress in the investigation and for such a heinous crime, the respondent police is not even in a position to find a clue, regarding the accused persons involved for the last six years. Therefore, the petitioner is seeking for transfer of investigation to some other agency.

4. When this matter came up for admission before this Court, this Court directed the respondent police to file a status report. A status report was also filed by the respondent police explaining the investigation conducted in this case.

5. The status report gives details regarding the various finger prints that was collected from the scene of occurrence and the steps taken by the respondent police to identify the finger print. It will be relevant to extract the following paras from the status report:

"18. Moreover this is one of the most hideous ghastly grotesque crimes that has occurred in this area. We are scrutinizing this highly complex case with full vigour and with a great determination to nab the Culprits. The zeal and persistence in pinning down the culprits has not decreased in its pace even a bit. The delay is not a result of deliberation but due to the complexity of the case detailed investigation in which even the minute details being verified is



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waiting up the time. Further all are anxious watchful and extremely desirous to bust the criminals. We are investigating the case with utmost sincerity and most vigilant to nick the criminals who did this adherent act.

19. Thereafter on 29.12.2017 the 2nd respondent herein formed a special team under HC 816 Thiru. Murali and Gr-I-PC 3235 Ramaperumal and round the clock they are in search of the accused. In the meantime some secret informations regarding one MNA Rajendran who worked in the GH, Ambasamudram was received and on 07.07.2018 MNA Rajendran, Murugaiah Pandian, Chelladurai and Muthukutti they were summoned under section 41 (A) Cr.P.C and they were enquired separately. CDR for Rajendran cell phone number 9175973601 was collected and each and every mobile number is under Scrutiny. On enquiry it revealed that during the Government hospital job at Ambasamudram there was enmity between Dr.Arul and MNA Rajendran which resulted in a criminal case in Cr.No.185 of 1995 for offences under sections 147, 148, 294(b), 353, 307 and 506(ii) of IPC and he was convicted under section 353 of IPC by the Hon'ble PDJ, Tirunelveli, On appeal before the Hon'ble Court he was acquitted during the year 2008 and thereafter he joined duty in the Melapalayam, Government Hospital.

20. Presently he is working in the Government hospital, Ambasamudram and we are secretly enquiring his involvement if any in the above case and we are totally under honest and unbiased enquiry and after collecting the direct evidence, I will proceed further even if it is MNA Rajendran or someone else. Further on 03.03.2019 I took charge as Inspector of Police, Ambasamudram and as a routine I daily enquire about the above case with the special team police. Further I have sent the thumb impression collected in soc to the Deputy Director General, UID Regional Office, Khaninj Bhavan, No.49, 3rd floor, South Wing, Race Course Road, Bangalore mth;fs; Assistant Director General, UID Technology Centre, Aadhaar Complex, NTI Layout, Tata Nagar, Kodigehalli, Bangalore-560092 and after receiving information I will proceed further. "



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6. The learned Additional Public Prosecutor on instructions submitted that the respondent police is taking sincere efforts to find out the culprits and they have already zeroed in on certain suspected persons. The learned counsel submitted that some more time may be granted for the completion of the investigation.

7. Taking into consideration the facts and circumstances of the case and the brutal manner, in which the crime has taken place and the pendency of the investigation for such a long time, without any substantial progress, this Court is inclined to transfer the investigation of this case to the file of the CBCID. This is a double murder case, which has an impact on the society at large and therefore an effective investigation has to be conducted by an independent agency.

8. In the result, this writ petition is allowed and the investigation in Crime No.319 of 2013, is transferred from the file of the first respondent to the file of the Superintendent of Police, CBCID, South Zone, Chennai. The entire case diary shall be transferred to the Superintendent of Police, CBCID, South Zone, Chennai, within a period of two weeks from the date of receipt of copy of this order. Immediately, on receipt of the case diary, the Superintendent of Police, CBCID, South Zone, Chennai, shall form a team headed by a Police Officer not less than the rank of Deputy Superintendent of Police. The new team shall proceed further with the investigation effectively and shall nab the culprit and file a final report as expeditiously as possible. No costs.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

To

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Ambasamudram,
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2.The Superintendent of Police,
O/s.The Superintendent of Police,
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3rd Floor, E.V.K.Sampath Building,
College Road, Chennai - 600 006.

6. The Public Prosecutor,
High Court, Madras.

7. The Superintendent of Police,
CBCID South Zone, Chennai

+2 ccs to Mr.S.Jeyakumar, Advocate, S.R.No.60479

W.P.No.10896 of 2019

KK(CO)
SSM(14/08/2019)