

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.11.2019

C O R A M

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.30101 of 2014

R.Raja

... Petitioner

Vs.

- 1.The Director General of Railway Police
Egmore, Chennai - 8.
- 2.The Deputy Inspector General of Police
Vellore Division, Vellore,
Vellore District.
- 3.The District Superintendent of Police,
Vellore District, Vellore.
- 4.The Inspector of Police
Railway Police Station
Katpadi, Vellore District.
- 5.The Sub Inspector of Police
Railway Police Station
Katpadi, Vellore District
Crime No.908 of 2012

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to order re-investigation of the case in Crime No.908 of 2012 on the file of the 5th respondent.

For petitioner : Mr.P.Mani

For Respondents: Ms.M.Prabavathy
Additional Public Prosecutor

ORDER

The petition has been filed seeking re-investigation of the case in Crime No.908 of 2012.

2. The case of the petitioner is that his son Balaji @ Kathiravan was found dead in Katpadi Railway Track and he was informed about the same, on 23.08.2012 through his son mobile phone. Thereafter, the petitioner along with his wife went to the Government Hospital, Adukkamparai, identified the dead body of his son and also found deep cut injuries at the hand, stab injuries below the lips and nose and amputation of the left leg. On 22.08.2012, the petitioner's son Balaji @ Kathiravan had gone out with one Ranjith, S/o.Rajendran to attend the family function. Further, the petitioner's son had love affair with one Sangeetha, which was not to the liking of her parents. Sangeetha's father and family members have threatened the petitioner's son earlier. Hence, the petitioner suspected that his son would have been murdered by these people and his body was thrown in the railway track and made to appear as accidental death caused by Train Run over.

3. Earlier, the petitioner filed Crl.O.P.No.30282 of 2013, seeking transfer of investigation to CBI, which was withdrawn on 22.09.2014. The petitioner also filed complaint before the State Human Rights Commission, with the similar allegations, which came to be dismissed.

4. Learned Additional Public Prosecutor submitted that in this case thorough investigation has been carried out by examining the Loco Driver, Train Guard, Station Master, Inquest Witnesses, Mother and Father of the deceased, petitioner's brother in law and sister. The petitioner's family members suspected the cause of death over the said Ranjith, Sangeetha's father and her family members. Thereafter, the respondent police had verified the call details of the deceased, Ranjith and Sangeetha.

5. It is further submitted that the postmortem Doctor who conducted autopsy on 24.08.2012, given his opinion "It is a case of death caused by Railway Run over case". It is further submitted that after thorough investigation only the case has been closed 17.01.2013. Further, since it is the case under Section 174 Cr.P.C and RCS notice have been served to the Tahsildar.

6. Considering the submissions, this Court had called for case diary and perused the same.

7. Considering the apprehension of the petitioner that the deceased was with deep cut injuries at the hand, stab injuries below the lips and nose and amputation of the left leg. In case

of train accident, if the body was dragged or rolled over for a distance the possibility of said injuries might occur and in the postmortem certificate, the cause of death has been categorically stated. The Doctor's statement is in conformity. Further, from the call details nothing suspicious is found.

8. In view of the same, this Court finds there is no ground to transfer, for re-investigation of the case. The petitioner being the father and family members of the deceased having doubts regarding the manner of death of his son had given statement to the respondents on 23.08.2012, which have been investigated.

9. The respondents 4 and 5, are very much aware that the petitioner's son is the victim and he is the aggrieved person. Hence, it would be appropriate that the RCS notice to have been served to the petitioner. Further the RCS closure report has not been filed before the Judicial Magistrate Court.

10. The Hon'ble Apex Court in the case of Bhagwat Singh vs. Commissioner of Police and another, reported in 1985 SCR (3) 942, has categorically held that when closure report is filed, notice has to be served to the informant.

11. In this case, the petitioner is the father of the deceased and he is the aggrieved person and hence, notice ought to have been served to the petitioner.

12. The Inspector of Police, Railway Police Station, Katpadi, Vellore District, the 4th respondent herein, is directed to serve notice to the petitioner and file the report before the concerned Magistrate. The petitioner is given liberty to file his objections and put forth his case if he desires, on receipt of the RCS notice.

13. With the above observations, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(CJ conf)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Director General of Railway Police
Egmore, Chennai - 8.
- 2.The Deputy Inspector General of Police
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Vellore District.
- 3.The District Superintendent of Police,
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Crime No.908 of 2012
- 6.The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.30101 of 2014

KJ(CO)
CB(17/12/2019)



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