

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P.No.22339 of 2019

Vasantha

...Petitioner

.Vs.

- 1.The Director General of Police,
State of Tamilnadu,
Mylapore, Chennai-600 002.
- 2.The Superintendent of Police,
Erode District, Erode.
- 3.The District Collector,
Erode District, Erode.
- 4.The Revenue Divisional Officer,
Gopichettipalayam, Erode District.
- 5.The Inspector of Police,
Kavandapadi Police Station,
Erode District.
- 6.The Additional Director General of Police,
Crime Branch CID, Chennai.

..Respondents

[Respondents 1,3 are deleted vide
Court Order dated 30.07.2019 made in WP.No.22339 of 2019]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the 1st respondent to transfer the investigation pending on the file of 5th respondent in Crime No. of 2017 to the 6th respondent taking into account of the proceedings of the 4th respondent in Na.Ka.No.A2/9073/2017 dated 06.06.2018 with a direction to the 6th respondent to complete the investigation with in a time frame fixed by this Court.

For Petitioner : Mr.K.C.Karl Marx

For Respondents: Mr.M.Mohamed Riyaz, APP

ORDER

This Writ Petition has been filed for transfer of investigation in Cr.No.529 of 2017, which was investigated by the 5th respondent Police.

2.The case of the petitioner is that her daughter who was working at the Primary Health Centre, died under mysterious circumstances on 05.11.2017. A complaint was given by the petitioner and an FIR came to be registered in Cr.No.529 of 2017, under Section 174 of Cr.P.C. Since the deceased belongs to SC community, the petitioner also wants the case to be investigated for the offence under Section SC/ST Act.

3.It is seen from records that the 5th respondent had investigated the case and come to a conclusion that it is a case of suicide, and therefore had filed a closure report before the RDO, Gobichettipalayam. The RDO, Gobichettipalayam, thereafter conducted an enquiry and by his report dated 06.06.2018, came to a conclusion that the investigation itself has not been conducted properly and there was a dereliction of duty on the part of the 5th respondent. The RDO, Gobichettipalayam had also given a finding to the effect that there are prima facie materials to show that an offence has been made out and the investigation has been conducted only to cover up the accused persons.

4.The learned counsel for the petitioner submitted that the 5th respondent had closed the case in a hasty manner without conducting proper investigation. The learned counsel further submitted that the petitioner was completely kept in dark and the 5th respondent ought to have waited for the report of the RDO, Gobichettipalayam, and made that report as a part of investigation and thereafter should have proceeded further with the investigation. Instead the 5th respondent has filed a closure report before the RDO, Gobichettipalayam, and therefore the procedure adopted by the 5th respondent is totally against the guidelines given by this Court in the judgment in Manohari . Vs. The District Superintendent of Police, Sivagangai & Others. reported in [2018 2 LW (CrI.) 522]. Therefore, the learned counsel concluded his arguments by submitting that the case requires reinvestigation and the same has to be monitored by some higher authority.

5.The learned Additional Public Prosecutor submitted that the respondent Police have come to a conclusion that the death of the daughter of the petitioner was caused due to suicide and no materials were collected by the respondent Police to suspect anyone behind the death of the daughter of the petitioner. The learned counsel further submitted that the 5th respondent ought to have filed the closure report before the concerned Magistrate Court and instead of doing it, has wrongly

filed it before the RDO, Gobichettipalayam

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

7.In the considered view of this Court, the procedure followed by the 5th respondent in this case is completely opposed to law and against the judgment of this Court in Manohari, referred supra. The 5th respondent ought to have waited for the report of the RDO, Gobichettipalayam, and made that report as a part of investigation and thereafter should have proceeded further with the investigation. However, the 5th respondent has filed a closure report before the RDO, Gobichettipalayam, and the RDO, Gobichettipalayam, has dealt with it and has come to a conclusion that the entire investigation is defective and has found fault with the manner in which this case was investigated by the 5th respondent.

8.The RDO, Gobichettipalayam, in his report had come to a very categorical conclusion that there are prima facie materials to proceed further in this case against the accused persons. The report of the RDO, Gobichettipalayam had dealt with in detail regarding the witnesses who were examined and the prima facie materials that are available in this case. The RDO, Gobichettipalayam, had categorically held that the 5th respondent has failed in his duty and there is dereliction of duty.

9.In view of the above, this Court is of the considered view that the matter requires further investigation. The closure report filed by the 5th respondent before the RDO, Gobichettipalayam, is hereby quashed. The 5th respondent is directed to take back the closure report and make the report of the RDO, Gobichettipalayam, dated 06.06.2018, as part of the case records. The 5th respondent shall thereafter proceed further to record the statements of the witnesses referred in the report of the RDO, Gobichettipalayam. The investigation of the 5th respondent shall be monitored by the 2nd respondent viz; the Superintendent of Police, Erode District. The investigation shall be completed within a period of three months from the date of receipt of copy of the order, and a final report or a closure report, as the case may be shall be filed before the appropriate forum.

This Writ Petition is disposed of with the above directions. There shall be no order as to costs.

Sd/-

Assistant Registrar(Insp cell)

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Sub Assistant Registrar

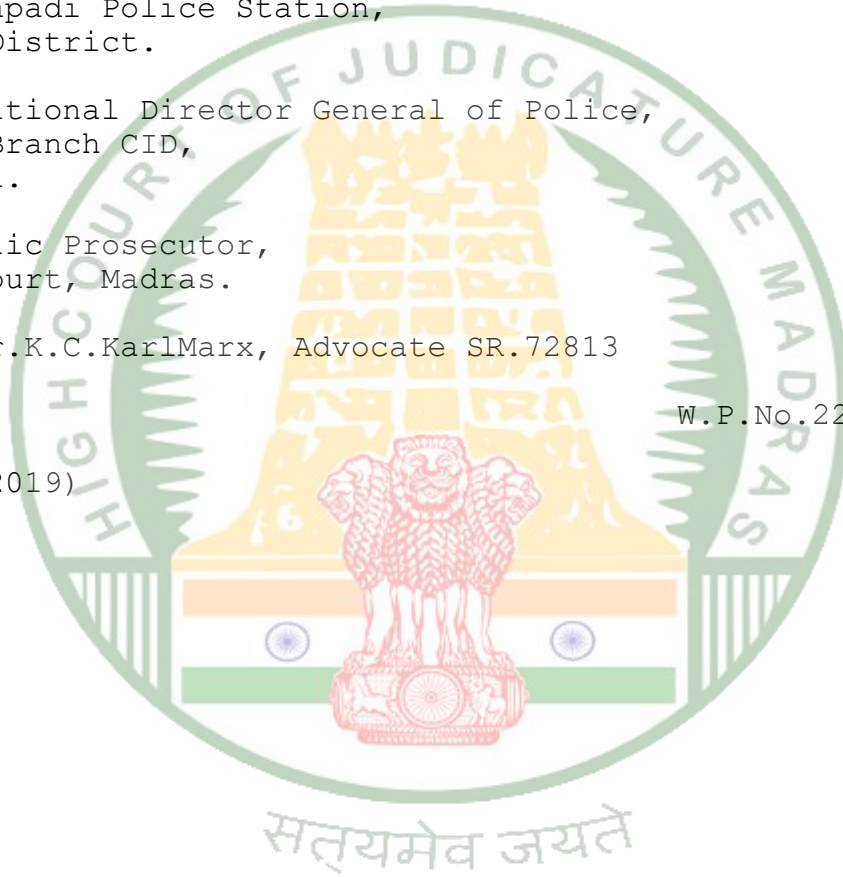
KP

To

- 1.The Superintendent of Police,
Erode District, Erode.
 - 2.The Revenue Divisional Officer,
Gopichettipalayam, Erode District.
 - 3.The Inspector of Police,
Kavandapadi Police Station,
Erode District.
 - 4.The Additional Director General of Police,
Crime Branch CID,
Chennai.
 - 5.The Public Prosecutor,
High Court, Madras.
- +lcc to Mr.K.C.KarlMarx, Advocate SR.72813

JP(CO)
CB(16/10/2019)

W.P.No.22339 of 2019



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