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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **N.SESHASAYEE**

Crl.O.P.(MD)No.4830 of 2019

and Crl.M.P(MD)No.3030 of 2019

Murugan

... Petitioner/Defacto Complainant

Vs.

1. The Superintendent of Police,
Madurai District.

2.The Inspector of Police,
Elumalai Police Station,
Madurai District.

3.The Inspector of Police,
CBCID,
Madurai District.

... Respondents

PRAYER: This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to withdraw the case in Crime No. 6 of 2019 pending on the file of the second respondent to the third respondent or some other competent agency to conduct fair investigation in the nature and circumstances of the case.

For Petitioner : Mr.R.Rajamohan

For Respondents : Mr.V.Neelakandan

Additional Public Prosecutor

O R D E R

The present petition is filed for transferring the investigation on the allegation that the case, which ought to have been registered under Section 302 IPC, has been registered only under Section 174 Cr.P.C.

2. When the case came up before this Court on 01.04.2019, this Court was shocked to realize that the First Information Report, which discloses the commission of heinous offence, was casually registered under Section 174 Cr.P.C. In particular, this Court now extracts paragraph No.2 of the said order:

<https://hcservices.ecourts.gov.in/hcservices/>

'2.A reading of the First Information Report discloses



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that the petitioner's mother, who had went out to attend natural call presumably because she is so port and she could not even afford to have a toilet for her and that she was set on fire by the four miscreants, on hear her death-cry, the petitioner and his wife along with the sisters have rushed to the scene of crime, saw his mother being roasted alive and they cannot even go near her and subsequently they picked the bed sheet to put on a fire and have taken her to the hospital. The First Information Report also says that the petitioner has witnessed four miscreants ran towards north and his mother had informed him about that they setting her on fire'

3. Then, this case came up on 03.04.2019, on which date this Court happened to read the dying declaration of the victim. The contents of the First Information Report itself includes extra judicial dying declaration made by the victim to the defacto complainant, and taken it along with judicial dying declaration recorded by the Magistrate, which would only go to add weight to the core allegation made in the First Information Report. Yet the case continues to be investigated only as a case of suspicious death under Section 174 Cr.P.C.

4. A woman has been roasted alive. Apathy and insensitivity of the Investigating Officer chills and shocks the conscience of this Court. Therefore, when the case was posted on 03.04.2019, this Court directed the Deputy Superintendent of Police, Usilampatti, to appear before this Court.

5. This Court is satisfied that the Investigating Officer-the second respondent herein is either incompetent or indifferent to his responsibility or even motivated. In which category this particular Inspector of Police falls is not known.

6. This Court therefore decides to change the Investigating Officer and directs the Deputy Superintendent of Police, Usilampatti to take over the investigation.

7. The CD file which has been entrusted with this Court on 01.04.2019 is directed to be handed over to the Deputy Superintendent of Police, Usilampatti.

8. So far as the conduct of the second respondent is concerned, this Court has already expressed its dissatisfaction to the manner of his investigation of this case. The first respondent is now directed to look into the matter and try to ascertain in which of the three categories mentioned earlier the second respondent would fall, and is required to initiate such appropriate action against him. The first respondent is also directed to intimate this Court as to the nature of action taken against the second respondent.



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9. In fine, this Criminal Original Petition is disposed of. Consequently, connected Crl.M.P(MD)No.3030 of 2019 is closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Superintendent of Police,
Madurai District.

2.The Inspector of Police,
Elumalai Police Station,
Madurai District.

3.The Inspector of Police,
CBCID,
Madurai District.

+1cc to Mr.R.RAJMOHAN, Advocate, SR.No. 59435

**Crl.O.P. (MD)No.4830 of 2019
and Crl.M.P. (MD)No.3030 of 2019
05.04.2019**

CM

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