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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2019

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.(MD) No.6335 of 2014

M.Suguna

... Petitioner

-vs-

1.State represented by
The Superintendent of Police,
Madurai District,
Madurai.

2.The Inspector of Police,
Silaiman Police Station,
Madurai District.
(Crime No.2801 of 2013)

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

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to transfer the case in Crime No.280 of 2013 on the file of the 2nd respondent to 3rd respondent ie., CBCID or any other agency for conducting the proper investigation in accordance with law.

For Petitioner : Mr.R.J.Karthick

For Respondents: Mr.M.Chandrasekaran
Additional Public Prosecutor

O R D E R

The petitioner's husband died in a road accident on 01.11.2013, pursuant to which, a case in Silaiman Police Station Crime No.280/2013 was registered on 02.11.2013 under Sections 279 and 337 IPC, later altered into Sections 279, 337 and 304(A) IPC. Since the description of the offending vehicle was not known, the case was treated as 'hit and run' accident. Since the police were not able to crack the case, the petitioner is before this Court seeking transfer of investigation to the CBCID.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

3.On instructions, the learned Additional Public Prosecutor submitted that the case in Crime No.280/2013 has been closed by the



learned Judicial Magistrate, No.II, Madurai, on 06.09.2014 under Sections 468(2) Cr.P.C., for the failure of the prosecution to complete the investigation within the period of limitation specified therein.

4. In the opinion of this Court, the allegations in the FIR do not warrant investigation by the CBCID and it would suffice, if the second respondent proceeds with the investigation. However, the trial Court ought not to have closed the FIR on the period of limitation, because the particulars of the offending vehicle and the name of the offender are yet to be identified. In a hit and run case, one cannot expect the police to complete the investigation within a specified period. They may, at any time, crack the case and trace the offending vehicle and bring the guilty to justice. Therefore, the order passed by the learned Judicial Magistrate, No.II, Madurai, closing the case on the ground of limitation is set aside.

5. In **Chinnathambi @ Subramani v. State, [(2017) 2 CTC 241]**, a Full Bench of this Court has held as follows:

"32. Thirdly, if the Investigating Officer, despite the earnest efforts taken, is unable to detect the crime, he will submit a report to the Magistrate stating that the crime is "undetectable". In such a case, it cannot be construed that the investigation has been completed. If once the investigation is completed, then only a Report could be filed under Section 173(2) Cr.P.C. A Report of this kind where the Police Officer states that the crime is undetectable, does not terminate the investigation and thus, the investigation is construed to be in progress. It is like an Interim Report not falling within the scope of Section 173(2) Cr.P.C. On receipt of such a Report, the learned Magistrate does not pass a Judicial Order but, instead, he simply receives and records the same. There is absolutely no element of any adjudication. This Order of the learned Magistrate is undoubtedly not a Judicial Order."

6. In view of the above, this Court directs the Deputy Superintendent of Police, Oomachikulam, to monitor the investigation in Silaiman Police Station Crime No.280/2013 and the Inspector of Police, Silaiman Police Station is directed to proceed with the investigation in Crime No.280/2013 and take earnest efforts to trace the offending vehicle and bring the guilty to justice.



7. With the above direction, this Criminal Original Petition is disposed of.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

RR

To:

- 1.The Deputy Superintendent of Police,
Oomachikulam.
- 2.The Superintendent of Police,
Madurai District, Madurai.
- 3.The Inspector of Police,
Silaiman Police Station,
Madurai District.
- 4.The Inspector of Police,
CBCID, Madurai,
Madurai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO MR.R.J.KARTHICK, Advocate Sr. No.56479

Crl.O.P. (MD) No.6335 of 2014
25.03.2019

TR (12.04.2019) 3P 7C