



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2019

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRL.O.P (MD) No.13561 of 2019

C. Chellaswamy

... Petitioner

Vs.

1.State Rep by
The Superintendent of Police
Kanyakumari District,
Kanyakumari.

2.The Inspector of Police,
Thiruvattar Police Station,
Thiruvattar,
Kanyakumari District.
Cr.No.183/2019

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the 1st Respondent to transfer the investigation in Crime No.183 of 2019 from the 2nd Respondent to any other Agency or any other competent officer.

For Petitioner : Mr.G.Aravinthan

For Respondents : Mr.K.Suyambulinga Bharathi,
Government Advocate(crl.side)

O R D E R

The petition has been filed for transfer of investigation in Crime No.183 of 2019 on the file of the second respondent to any other agency.

2. Heard both sides.

3. It is seen that on the complaint lodged by one Anitha/defacto complainant, with the allegation that her son and the petitioner's son are friends, they used to go out by using motorcycle belongs to the daughter of the defacto complainant. While being so, on 23.05.2019, the son of the petitioner herein riding the motor cycle and the son of the defacto complainant, who was the pillion rider, they were proceeded in Kallupalam near Isakkiayamman temple, they met with an accident and as such, the son of the petitioner was died. The son of the defacto complainant admitted into the hospital and the statement was recorded from the son of the defacto complainant, the second respondent registered a case as against the son of the petitioner herein for the offences



under Sections 279, 337 and 388 I.P.C., subsequently, it is altered into offence under Section 304(A) I.P.C.. He further submitted that only on the statement recorded from the son of the defacto complainant, the complaint has been registered, without conducting enquiry from the witnesses.

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4. According to the petitioner, the son of the defacto complainant only driving the vehicle in a rash and negligence manner and hence, the son of the petitioner, who is being the pillion rider, sustained grievance injuries on head and died. He further submitted that the second respondent did not even conduct enquiry with any of the witnesses from the side of the petitioner, registered the case. Therefore, he sought for transfer of investigation.

5. Per contra, the learned Government Advocate (criminal side) submitted that on 27.05.2019 one information received from the hospital, a statement was recorded from the victim and registered a case in Crime No.183 of 2019 for the offences under Sections 279, 337 and 338 I.P.C and subsequently, it is altered under Section 304 (A) I.P.C. in this regard, they also examined two eye witnesses viz., Raju and Sundaram and confirmed that the son of the petitioner only riding the motorcycle in a rash and negligent manner and met with an accident and the investigation is still pending.

6. Considering the facts and circumstances, at this stage, the transfer of investigation cannot be granted, since it would affect the entire investigation.

7. Hence, this Criminal Original Petition is dismissed. However, the second respondent is directed to complete the investigation in Crime No.183 of 2019 and file the final report, after examining the witnesses from the petitioner's side, within a period of four weeks from the date of receipt of a copy of this order. The first respondent is directed to monitor the investigation and ensure that the second respondent shall complete the investigation and file the final report as directed by this Court.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar (CS)

Ls



To

1.The Superintendent of Police
Kanyakumari District,
Kanyakumari.

2.The Inspector of Police,
Thiruvattar Police Station,
Thiruvattar,
Kanyakumari District. .

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G.ARAVINTHAN, Advocate (SR-93786[F] dated 23/10/2019)

CRL.O.P (MD) No.13561 of 2019
22.10.2019

_KK/SAR/11.11.2019/3P-5C/