



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P. (MD) .No.7951 of 2017

WEB COPY

Shantha

... Petitioner/ Victim

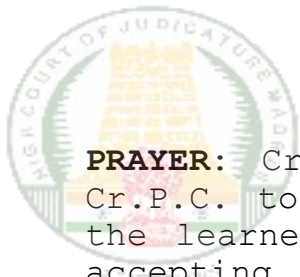
Vs.

- 1) The Superintendent of Police,
Kanyakumari District, Nagercoil.
- 2) The Inspector of Police,
Marthandam Police Station,
Marthandam,
Kanyakumari District.
(Cr.No.609 of 2014)
- 3) The Inspector of Police,
CBCID, Nagercoil,
Kanyakumari District.
- 4) Dr.Vivekananthan,
Government Primary Health Centre,
Melpuram, Pacode Village,
Vilavancode Taluk,
Kanyakumari District.
- 5) Dr.Subaja, In charge,
Government Primary Health Centre,
Melpuram, Pacode Village,
Vilavancode Taluk,
Kanyakumari District.
- 6) Usha,
Nurse, Government Primary Health Centre,
Melpuram, Pacode Village,
Vilavancode Taluk,
Kanyakumari District.
- 7) Subala,
Nurse, Government Primary Health Centre,
Melpuram, Pacode Village,
Vilavancode Taluk,
Kanyakumari District.

... Respondents

** RR 4 to 7 impleaded as per order of this Court made in Crl.M.P. (MD) No.6716 of 2017 in Crl.O.P.(MD) No.7951 of 2017 dated 13.11.2017.*

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PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records and set aside the order passed by the learned Judicial Magistrate No.I, Kuzhithurai dated 09.12.2015 accepting the closure report filed by the 2nd respondent herein in Crime.No.609 of 2014 and further direct re-investigation of the F.I.R in Crime No.609 of 2014 dated 13.09.2014 on the file of the 2nd respondent which has been closed as Action Dropped.

For Petitioner : Mr.A.Thiruvadi Kumar
For RR 1 to 3 : Mr.S.Chandrasekar,
Additional Public Prosecutor
For R5 : Mr.M.P.Senthil
For RR 4,6 & 7 : Mr.Ananth C.Rajesh

O R D E R

This Criminal Original Petition has been filed seeking for the relief of re-investigation of the case in Crime no.609 of 2014, on the file of the second respondent.

2. An F.I.R was registered based on the complaint given by the son-in-law of the petitioner on the ground that the daughter of the petitioner was admitted in the hospital for delivery and since she was not taken care and there was gross negligence on the part of the doctor, she died on 12.09.2014. Therefore, a complaint came to be given by the son-in-law of the petitioner and the same was registered under Section 174 Cr.P.C. and thereafter, altered to an offence under Section 304(A) of I.P.C.

3. The respondent Police investigated the case and filed a closure report before the Judicial Magistrate-I, Kuzhithurai. The grievance of the petitioner is that the closure report was filed without proper investigation and merely on the ground that, the victim had died due to loss of blood before the delivery of the child and therefore, the death is natural.

4. The learned counsel for the petitioner submitted that the *de facto* complainant, who is the son-in-law of the petitioner has remarried and is living else where. The RCS notice was served only on him and the petitioner was not even aware of the developments in the case. Therefore, the petitioner was not in a position to file protest petition before the concerned court.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. Taking into consideration the facts and circumstances of the cases, this Court is not inclined to order for an re-investigation at this stage. The respondent police have collected the details and



have come to a conclusion that the death was due to natural causes and it was not due to the negligence on the part of the hospital. This issue requires factual consideration based on the materials collected during investigation. Therefore, the same can be effectively done only by the Court below.

7. In the result, this Criminal Original Petition is disposed of by giving liberty to the petitioner to file a protest petition before the Judicial Magistrate-I, Kuzhithurai and the same shall be considered by the learned Magistrate based on the materials collected during the investigation and the closure report filed before the Court, in accordance with law. The protest petition to be filed, shall be disposed of within a period of four(04) weeks from the date of filing the petition by the learned Judicial Magistrate-I, Kuzhithurai.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate No.I, Kuzhithurai

2) The Superintendent of Police,
Kanyakumari District,Nagercoil.

3) The Inspector of Police,
Marthandam Police Station,
Marthandam, Kanyakumari District.
(Cr.No.609 of 2014)

4) The Inspector of Police,
CBCID, Nagercoil,
Kanyakumari District.

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

+1 CC to Mr.M.P.SENTHIL, Advocate (SR-89603[F] dated 26/09/2019)

+1 CC to Mr.A.THIRUVADI KUMAR, Advocate (SR-89661[F] dated
26/09/2019)

+1 CC to Mr.ANANTH C.RAJESH, Advocate (SR-90064[F]dated 27/09/2019)

Order made in

Crl.O.P. (MD) .No.7951 of 2017

25.09.2019

sts

VB(18.10.2019) 3P 9C

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