



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2019

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD) No.7281 of 2013

and

M.P. (MD) No.1 of 2013

V.Chikkan

... Petitioner

vs.

1.The Inspector General of Police,
South Zone, Madurai.

2.The Inspector General of Railway Police,
No.8, Varadarajulu Street,
Chennai 600 008.

3.The Superintendent of Police,
Railway Police (Trichy Division)
(Incharge at Chennai),
No.8, Varadarajulu Street,
Chennai 600 008.

4.The Superintendent of Police,
Railway Police, Trichy Division,
Trichy.

5.The Superintendent of Police,
Dindigul District.

6.Mr.Sivakumar,
The Inspector of Police,
Railway Police Station,
Dindigul.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 5 to change the investigation of the criminal case registered under the Crime No.44 of 2013 from the hands of the 6th respondent to any other appropriate authority as deem fit and further direct the respondents 1 to 5 to supervise the investigating officer, ensuring fair investigation.

For Petitioner : Mr.K.R.Laxman

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

For Respondents : Mr.A.Robinson
Government Advocate (Crl. side)

**ORDER**

The Writ Petition is filed seeking transfer of investigation in Crime No.44 of 2013, from the file of the sixth respondent to some other investigating agency.

2. According to the petitioner, his 14 year old daughter, namely, C.Suganthi was found dead in the railway track on 07.03.2013 and the sixth respondent police has registered a case in Crime No.44 of 2013 for the offence punishable under Section 174 of Cr.P.C., as if the petitioner's daughter had committed suicide due to exam fear. According to the petitioner, the investigation was not carried out in a proper manner and therefore, he sought for the relief of transfer of investigation.

3. The learned Government Advocate (Criminal side), on instructions from the respondent police, would submit that the investigation in Crime No.44 of 2013 has been concluded and a final report was also filed before the concerned executive magistrate as required under Section 174 of Cr.P.C.

4. Though the case is registered under Section 174 Cr.P.C., this Court in the decision reported in **2018 (3) MWN (Cr.) 143**, in the case of **Manohari and others v. District Superintendent of Police, Sivaganai District and others**, has held that the final report has to be filed only before the concerned Judicial Magistrate and not before the Executive Magistrate. The relevant portion from the said decision is extracted hereunder:

"22. the inquiry that is held by the Executive Magistrate under Section 174 of Criminal Procedure Code is a plain and simple non judicial function. The report submitted by the Executive Magistrate relating to the inquiry shall form part of the investigation conducted by the Police and such report shall be used by the Investigating Officer in the course of investigation. The investigation conducted by the Investigating Officer has to proceed independently in accordance with law and the inquiry conducted by the Executive Magistrate is not a bar for the Police to go ahead with the investigation.

23. From the above discussion, it is clear that the Police after registration of a FIR under Section 174 of Cr.P.C will have to conduct an inquest in accordance with Section 174(1) of Cr.P.C and submit a report to the Executive Magistrate under Section 174(2) of Criminal Procedure Code. The Executive Magistrate will independently conduct an inquest in line with the provisions under Section 174(4) of Cr.P.C. This power has been given to the Executive Magistrate, since the legislature thought that an inquest should be conducted



WEB CO

WEB CO

WEB CO

WEB CO

WEB CO

WEB CO

WEB CO

WEB CO



To

- 1.The Inspector General of Police,
South Zone, Madurai.
- 2.The Inspector General of Railway Police,
No.8, Varadarajulu Street,
Chennai 600 008.
- 3.The Superintendent of Police,
Railway Police (Trichy Division)
(Incharge at Chennai),
No.8, Varadarajulu Street,
Chennai 600 008.
- 4.The Superintendent of Police,
Railway Police, Trichy Division,
Trichy.
- 5.The Superintendent of Police,
Dindigul District.
- 6.Mr.Sivakumar,
The Inspector of Police,
Railway Police Station, Dindigul.
- 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.R.LAXMAN, Advocate in SR-53432

W.P. (MD) No.7281 of 2013
and
M.P. (MD) No.1 of 2013
11.03.2019

sjj
PK/25.04.2019 :5P/9C