

HONOURABLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.17127 of 2012

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for respondent Nos.1 to 5.

The prayer sought in the writ petition is as under:

“... to issue an appropriate writ, or order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 3rd respondent in not conducting the proper investigation as per Criminal Procedure Code in Cr.No.9 of 2011 is illegal, arbitrary and in violation of Articles 14, 21 of the Constitution of India and consequently to direct the official respondents No.1 and 2 to transfer the Cr.No.9 of 2011 to CBCID i.e., 5th respondent for further investigation and the dead body of petitioner’s husband late Haneef may be exhumed and refer to the 4th respondent for the purpose of ascertaining cause of the death in the above crime and also consider the representations made by the petitioner dated 28.10.2011 and 09.12.2011 and 02.02.2012.”

Respondent No.1 filed a counter affidavit denying the averments made in the affidavit filed in support of the writ petition and contended *inter alia* that one Mohd. Shaik Ahmed @ Baba approached Jharasangam Police Station on 01.12.2011 at 9.30 hours and lodged a complaint stating that on 31.01.2011 at about 2200 hours his mother-in-law, Smt.Arifa Begum, informed his wife Smt. Noorjahan Begum that her husband, Md. Haneef, aged about 60 years left the house on 31.01.2011 at about 1330 hours saying that he is

going to agricultural fields and did not return home late in night. However, all his searches went in vain since the whereabouts of Mohd. Haneef are not known. Pursuant to the said complaint, a case in Crime No.9 of 2011 was registered. After investigation, a final report was filed on 31.10.2015. It is further stated in the counter affidavit that the doctor, who treated the deceased, in the postmortem examination report opined that the cause of death is due to "Acute Myocardial Infarction (AMI) Heart Attack". Upon which the Investigating Officer gave a questionnaire to the Medical Officer and asked him if any person suddenly gets heart attack and falls on the ground surface with stones there is possibility of sustained linear fracture of left temporal partial part of skull bone or not? He answered 'Yes'. It is further stated in the counter affidavit that on the complaint raised by the blood relatives of the deceased expressing suspicion over the death of the deceased, the case was viewed from various angles and found that there is no foul play or suspicious came to light. On searching the deceased, one Zintak 150 mg pill used for gastic problem, dexona pill used for pain killer and suhargra 100 mg pill used for enhancing sex were found. It is also stated that the deceased used these pills and they might have lead to his heart attack. Therefore, it was a natural death due to heart attack.

During the course of hearing, learned Government Pleader also filed written instructions dated 03.09.2019 issued by the Assistant Sub-Inspector of Police, Jharasangam Police Station, Sangareddy District .

From a perusal of the said written instructions, it is revealed that during the course of investigation the Investigating Officer obtained FSL report, wherein it was opined that there is no poisonous substance found in viscera of the deceased and the doctor opined that the cause of the death of the deceased was due to Acute Myocardial Infarction (AMI) Heart Attack.

Learned Government Pleader brought to the notice of this Court that pursuant to the registration of Crime No.9 of 2011, investigation was completed and a final report was already filed before the concerned Magistrate on 31.10.2015.

The present writ petition is filed in the year 2012. Therefore, this Court is of the opinion that after a gap of seven long years and more particularly in the light of the opinion expressed by the doctor, who conducted the postmortem examination, no useful purpose would be served even if the body is exhumed. Therefore, as far as this relief is concerned, the writ petition has become infructuous by efflux of time. However, as observed in the earlier paragraph with regard to filing of the final report, the petitioner is given liberty to raise her objections in the form of a protest application and seek appropriate relief as per law.

With the above said observations, the writ petition is closed. No order as to costs.

Miscellaneous petitions, if any, shall also stand closed.

P. KESHA RAO, J

Date: 14.10.2019.
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