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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.1537 of 2020

and

CrI.M.P.No.3235 of 2020

K.Sheikh Ibrahim

... Petitioner

Vs.

1.The Deputy Commissioner of Police,
Madhavaram Range,
Chennai.

2.The Inspector of Police,
M-3, Puzhal Police Station,
Chennai - 600 066.

... Respondents

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to withdraw the case in Crime No. 560 of 2019, on the file of the second respondent and transfer the same to the first respondent who in turn debut an officer not below the rank of the Inspector of Police to investigate the case.

For Petitioner : Mr.V.Karnan

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to transfer of investigation in Crime No.560 of 2019 from the file of the second respondent police to the file of the first respondent.

2 The learned counsel appearing for the petitioner would submit that the petitioner is the brother of the deceased viz., Syed Abdul Kareem. His brother immediately after marriage committed suicide by hanging himself. He suspected his brother's wife for his suicide. In fact, there is a video photage available to attract the offence under Section 306 of IPC as against the wife of the deceased. Even then, the second respondent did not investigate the matter in a proper manner and try to close the same.



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3 The learned Additional Public Prosecution filed a status report stating that the petitioner is a brother of the deceased and the deceased got married on 10.11.2019. Thereafter, on 15.11.2019, he committed suicide by hanging. On the representation and photograph produced by the petitioner herein, the second respondent has examined the following persons and also they have stated specifically as:

"8. I submit that on 16.11.2019, the Inspector of Police has also examined the following witnesses and recorded their statements:

1. Tmt. Bowshia Banu - Wife of the deceased
2. Tmt. Rahmath Nisha Begum Sister of Bowshia Banu
3. Tr. Abdul Jamal - Father of Bowshia Banu
4. Tmt. Juma Beevi - Mother of the Bowshia Banu
5. Tr. Mohamed Rizaz - Brother of Bowshia Banu
6. Tr. Sarbudeen - Relative of Bowsia Banu

1st witness, who is the wife of the deceased speaks about that on the first night of their marriage, the deceased was tried to have sexual intercourse with her, but he could not able to do the same. Continuously, three days, the deceased was tried to have sexual intercourse with her, but he is not capable for the same. She also stated that the body language of the of the deceased look likes ladies."

4 Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and perused the materials placed on record.

5 On a perusal of the statement recorded from the witnesses shows that the deceased is incapable to have sexual intercourse with his wife and as such, he has committed suicide. Therefore, the second respondent is going on with investigation in an appropriate and fair manner. Now, the second respondent police almost completed the investigation. At this stage, the transfer of investigation would effect the entire investigation done by the second respondent.

6 Taking into consideration the above facts and circumstances, this Court is not inclined to transfer the investigation from the file of the second respondent to other investigation agency. However, the second respondent is directed to complete the investigation and to file a final report within a period of three months from the date of receipt of a copy of this order. During the investigation, if the second respondent found any evidence available to attract the offence under Section 306 of IPC, the second respondent is directed to alter the FIR accordingly.



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7 Accordingly, the Criminal Original Petition stands dismissed with the above directions. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO-MDU)

//True Copy//

Sub Assistant Registrar

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To

1.The Deputy Commissioner of Police,
Madhavaram Range,
Chennai.

2.The Inspector of Police,
M-3, Puzhal Police Station,
Chennai - 600 006.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Karnan, Advocate SR.22606

CRL.O.P.No.1537 of 2020

LN(CO)
CB(09/07/2020)