

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.02.2020

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THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.2988 of 2020

R.Salim

... Petitioner

Vs.

1. The State represented by
The Superintendent of Police,
O/o. Superintendent office,
Vellore, Vellore District.
 2. The Inspector of Police,
CB-CID,
Vellore, Vellore District.
 3. The Inspector of Police,
Kandhili Police Station,
Vellore District.
- ...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the first respondent to transfer the investigation in Crime No.309 dated 22.12.2017 from third respondent to second respondent, CB-CID, Vellore.

For Petitioner : Mr.S.Manoharan

For Respondents : Mr.M.Mohamed Riyaz
Additional Government Pleader

O R D E R

This petition has been filed to direct the first respondent to transfer the investigation in Crime No.309 of 2017 dated 22.12.2017 from the third respondent to the second respondent, CB-CID, Vellore.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. The learned counsel for the petitioner has submitted that on 18.12.2017 at 6.00 a.m, the petitioner's sister-in-law Habiba, informed him that his wife is admitted in Thiruppathur Kabeer, Government Hospital. Hence, the petitioner rushed to the said Hospital and found that his wife has sustained cut injuries on her face and head and she was unconscious and subsequently she died on 22.12.2017. He further submitted that the third respondent has obtained signature from the petitioner and registered a case in Crime No.309 of 2017 dated 22.12.2017 under Sections 279, 304-A of IPC and thereafter he closed the case without taking any action. He further submitted that the petitioner's wife was murdered but the third respondent has not stated it in the aforesaid FIR and has not investigated the matter properly and with a view to help the accused, he closed the said case and therefore he prayed to transfer the investigation to the second respondent.

4. Per contra, the learned Additional Public Prosecutor has submitted that based on the complaint given by the petitioner herein, the third respondent has registered an FIR in Crime No.309 of 2017. Based on the same, investigation has been completed and a charge sheet was filed against one Abdul Kabeer, S/o. Anverbasha under Sections 279 & 304-A of IPC. He further submitted that based on the said charge sheet, the learned Judicial Magistrate No.II, Tirupattur has taken the case on file in C.C.No.50 of 2018 and conducted trial. He further submitted that during trial, the petitioner was examined as PW.1 and thereafter 10 witnesses were examined as P.Ws 2 to 11 and 8 documents were marked as Ex.P1 to Ex.P8. He further submitted that after full trial, the learned Judicial Magistrate has acquitted the accused by the judgment dated 28.12.2018. He further submitted that suppressing the aforesaid facts, the petitioner has filed the present petition and therefore he prayed to dismiss the petition. He also produced a copy of the judgment passed in C.C.No.50 of 2018 dated 28.12.2018 on the file of the Judicial Magistrate No.II, Tirupattur.

5. A perusal of the copy of the judgment in C.C.No.50 of 2018 on the file of the Judicial Magistrate No.II, Tiruppathur shows that based on the petitioner's complaint FIR was registered and after investigation charge sheet was filed under Sections 279 & 304-A of IPC against one Abdul Kabeer, S/o.Anverbasha and based on the said charge sheet, learned Judicial Magistrate No.II, Tiruppathur has taken the case on file in C.C.No.50 of 2019. After appearance of the accused, she conducted trial, and during trial, the petitioner herein was examined as P.W.1 and thereafter 10 witnesses were examined as

P.Ws.2 to 11 and Exs.P1 to Ex.P8 were marked and thereafter learned Judicial Magistrate by the judgment dated on 28.12.2018 has acquitted the accused. But suppressing the said facts, the petitioner has filed the present petition as if the third respondent has closed the FIR without any investigation and therefore this Court does not find any merits.

6. Accordingly, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.II,
Tirupattur.
2. The Superintendent of Police,
O/o. Superintendent office,
Vellore, Vellore District.
3. The Inspector of Police,
CB-CID,
Vellore, Vellore District.
4. The Inspector of Police,
Kandhili Police Station,
Vellore District.
5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Manoharan, Advocate SR.11608

Cr1.O.P. No.2988 of 2020

PP(CO)
CB(17/06/2020)

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