

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2020

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No. 3787 of 2020

R.Catherine Jean Roberts,
W/o. John Shindler,
No.22,Ramana Nagar,1st Street,
Behind Yogiram Ashram,
Tiruvannamalai-606 601. Petitioner

Vs.

- 1.The Superintendent of Police,
Kancheepuram District
- 2.The Inspector of Police,
Baluchetty Chatram Police Station,
Kancheepuram District. Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, praying to transfer the investigation in Crime No.229 of 2019 on the file of the second respondent police to the CBCID or any other agency.

For Petitioner : Mr.C.Kanagaraju

For Respondents : Mr.S.Karthikeyan
Additional Public Prosecutor

O R D E R

This petition has been filed for seeking to transfer the investigation in Crime No.229 of 2019 on the file of the second respondent police to the CBCID or any other agency.

2. The learned counsel appearing for the petitioner would submit that the petitioner's brother aged about 73 years old died under the suspicious circumstances. Thereafter, he came to understand that the deceased and accused became friends and it acquainted each other utilising the said circumstances the deceased is being an American citizen, the accused on false promise that he would arrange permanent visa to stay in India.

He received a sum of Rs.20,00,000/- from the deceased. Thereafter, the accused through away from India and went to Dubai for searching his job thereby he cheated the deceased a tune of Rs.20,00,000/-. The deceased able to lodge a complaint through his advocate and sent a message through whatsapp to the accused and demanded to return of his money. Thereafter, the accused visited India and after knowing the fact that the deceased through his counsel contact the accused asked for return of his money. Therefore, on the pretext on returning the money the accused took the deceased were travelled to various places. Finally the deceased was murdered and thrown out the body by the said accused. He further submitted that after registering FIR on 21.06.2019, the accused also had taken the credit card of the deceased and purchased so many things by using the credit card and thereby he had taken money to the tune of Rs.20,00,000/-. Even then the second respondent did not enquire about the same and no money is recovered from the accused person. Further the confession statement was recorded from the accused also differs from each confession statement; it would leads to acquittal of the accused. Therefore, the second respondent supported the accused and he is doing shaddy investigation as such the petitioner sought for transfer of investigation from the file of the second respondent to the CBCID.

3.Per contra, the learned Additional Public Prosecutor filed a status report and submitted that on the complaint of Village Administrative Officer alleging that one unknown male burnt body lying at Keezhambi, Vadaerrikarai near Sri Sa Garden within the Jurisdiction of the second respondent and thereafter on 21.06.2019 the second respondent registered the case in Crime No.229/2019 for the offence under Section 302, 201 IPC. Thereafter, the second respondent examined so many persons and during the investigation reveals that the accused, who came down from Dubai, and voluntarily surrendered before the Village Administrative Officer, Kancheepuram, on 16.07.2019 and admitted his guilt and confession statement recorded before the Village Administrative Officer in the presence of independent eye witnesses. Based on the confession, the second respondent examined twenty persons and recorded statements. Investigation reveals that there was money dispute between the deceased and the accused in which the accused owes to pay a sum of Rs.20,00,000/- to the deceased. He further submitted that now the second respondent is about to complete the investigation and file a final report while being so the petitioner come forward and also file statement of accounts of the deceased. On receipt of the same, the second respondent found that the deceased was having savings account in the bank of America situated at Mount road, Chennai, and he enquired the bank of America and refused to give any details in respect of account maintained by the

deceased. They only replied that after getting permission from the Head Office, the banker can provide details for investigation that too on the request made by the Deputy General of Police, the Bank furnished the details and investigation is pending in that record. Therefore, he prayed that at this juncture investigation transfer to some other investigation it would spoil entire investigation. The petition was filed for transfer the investigation from the file of the second respondent to the file of the CBCID.

4. It is seen that on the complaint lodged by the Village Administrative Officer, the second respondent registered a case for the offence under Section 301 IPC and also traced out the accused through call details between the deceased and the accused. Thereafter, the accused himself came to India and surrendered before the Village Administrative Officer. He also given confession statement, before the Village Administrative Officer and based on the confession statement, the second respondent investigated the case and recorded 161 Cr.P.C statement from 20 witnesses. While being so, the petitioner being the sister of the deceased found that after this occurrence, from the account of the deceased lot of money was taken out by purchasing so many things. Therefore, the petitioner received the statement of accounts and furnished the second respondent for further investigation. On receipt of the statement of accounts of the deceased, the second respondent also taking proper steps to find out the usage of credit card subsequent to the death deceased. It is also serious to note that the petitioner not able to produce all the statement recorded under Section 161 statement and also confession statement before this Court. Even before filing the final report by the second respondent, this Court wondered that how the petitioner would be got the statement recorded in 161 Cr.P.C, and also confession statement of accused. Before filing final report, all the statements were coming out from the records. However, now the second respondent proceeding with the investigation on the right way, on the statement of bank accounts produced by the petitioner and investigation is still pending.

5. Considering the above facts and circumstances, the transfer of investigation would affect the entire investigation done by the second respondent also now the investigation is about to complete and second respondent is about to file a final report. At this stage, the investigation cannot be transferred to other agency and it would need to further consumption of time. Therefore, this Court is not inclined to transfer the investigation to the second respondent. However the second respondent is directed to complete the investigation and file a final report within a period of twelve weeks from the date of

receipt of a copy of this order. The first respondent is directed to monitor the investigation done by the second respondent and also ensure that the second respondent follow the order passed by this Court.

6.With the above direction, this Criminal Original Petition stands disposed of.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Superintendent of Police,
Kancheepuram District
- 2.The Inspector of Police,
Baluchetty Chatram Police Station,
Kancheepuram District..
3. The Public Prosecutor,
High Court, Madras.

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