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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.22232 of 2018

and

CRL.O.P.No.3551 of 2020  
& Crl.M.P.No.2087 of 2020

Parvathi  
W/o.Govindan

... Petitioner  
in both cases

Vs.

1. The Superintendent of Police,  
Salem, Salem District.

2. The Inspector of Police  
Attiyampatti Police Station,  
Salem District.  
(Crime No.221 of 2018)

3. The Inspector of Police,  
CBCID, Salem.

... Respondents in  
Crl.O.P.22232 of 2018

1. The Superintendent of Police,  
Salem, Salem District.

2. The Inspector of Police  
Attiyampatti Police Station,  
Salem District.  
Crime No.221 of 2018)

3. The Inspector of Police,  
CBCID, Salem.

4. Saravanan

5. Manikandan

6. Kangu @ Kanagaraaj

7. Jothivelu @ Settu

8. Sekar @ Dhanasekaran

... Respondents in  
Crl.O.P.No.3551 of

2020

PRAYER in Crl.O.P.No.22232 of 2018: Criminal Original Petition



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filed under Section 482 of Cr.P.C. praying to transfer the investigation of the case in Crime No.221 of 2018 on the file of the second respondent police herein to the third respondent/CBCID Police, Salem and to file final report within time limit fixed by this Court.

PRAYER in Crl.O.P.No.3551 of 2020: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to transfer the further investigation or reinvestigation of the case in S.C.No.1 of 2019 on the file of the learned Principal Sessions Judge, Salem in Crime No.221 of 2018 on the file of the second respondent police to the Inspector of Police, CBCID, Salem/3rd respondent.

For Petitioner  
in both Crl.O.Ps.: Mr.B.Gopalakrishnan  
For Mr.S.Gunalan

For Respondents  
in both Crl.O.Ps.

For R1 to R3: Mr.S.Karthikeyan  
AdditionalPublic Prosecutor.

#### COMMON ORDER

The petition in Crl.O.P.No.22232 of 2018 has been filed to transfer the investigation of the case in Crime No.221 of 2018 on the file of the second respondent police to the third respondent/CBCID Police, Salem and to file final report within time limit fixed by this Court.

2. The petition in Crl.O.P.No. 3551 of 2020 has been filed for direction to direct the third respondent to conduct further investigation in the case having been taken cognizance in S.C.No.1 of 2019 on the file of the learned Principal Session Judge, Salem, in Crime No.221 of 2018 on the file second respondent police.

3. The learned counsel appearing for the petitioner in both cases would submit that the petitioner is the defacto complainant. The case of complainant is that her deceased son viz., Sakthivel had illicit affair with one Dhanalakshmi, W/o. Saravanan and therefore, the said Saravanan quarrelled with her son. While being so, on 13.06.2018 at 10.30 am., one Sekar @ Dhanasekaran came to her house and informed that her son Sakthivel consumed poison and admitted in hospital. When the petitioner reached the hospital her son died. Thereafter, she came to understand that the accused persons viz., Saravanan, Settu, Sekar @ Dhanasekaran, Kanagu @ Kanagaraj and Manikandan abused her son physically and mentally. Therefore, he fell unconscious and thereafter one of the accused persons admitted her son in the hospital, where he died due to the injuries



sustained by him. Thereafter the petitioner lodged complaint before the second respondent as against all the accused persons. On receipt of the same, the second respondent registered a case only as against four accused persons. The second respondent failed to register a case as against one Sekar @ Dhanasekaran, since he is politically influential person as such, the second respondent did not register a case and also failed to file final report as against him. In fact, the petitioner and other witnesses have deposed before the learned Judicial Magistrate, while recording their statement under Section 164 of Cr.P.C., and they specifically spoken about the role played by the said Sekar @ Dhanasekaran. Therefore, he also one of the accused, who murdered her son.

3.1. He further submitted that the petitioner also filed a petition in Crl.O.P.No.22232 of 2018 to transfer the investigation in Crime No.221 of 2018 from the file of the second respondent to the third respondent police. Though this Court by an order dated 17.09.2018, directed the respondent police not to file a final report, the second respondent completed the investigation and filed final report. Therefore, he prayed to transfer the case for further investigation to the file of the third respondent.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondents 1 to 3 would submit that after completion of investigation in Crime No.221 of 2018, the second respondent filed final report and the same has been taken cognizance in S.C.No.1 of 2019 on the file the learned Principal Session Judge, Salem. The second respondent filed final report as against four persons for the offence under Section 302 r/w. 34 of IPC. The incriminating material clearly shows that the accused persons 1 to 4 have involved in the crime and murdered the son of the petitioner herein. In respect of one Sekar @ Dhanasekarnan is concerned, he has not been arrayed as accused and he is shown as witness as L.W.3. There is no material as against him and therefore, the second respondent filed charge sheet as against four accused persons and the same has been taken cognizance and it is pending for trial in S.C.No.1 of 2019 on the file of the learned Principal Sessions Judge, Salem. Therefore, he prayed for dismissal of this petition.

5. Heard Mr.B.Gopalakrishnan, learned counsel appearing for the petitioner and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the respondent 1 to 3 in both cases.

6. Insofar as the petition in Crl.O.P.No.22232 of 2018 is concerned, since the second respondent has already completed the investigation in Crime No.221 of 2018 and filed final report,



the prayer sought for in that petition has become infructuous. Accordingly the Criminal Original Petition is dismissed as infructuous.

7. As far as the petition in Crl.O.P.No.3551 of 2020 is concerned, on perusal of the statement recorded from the said Sekar @ Dhanasekaran, it shows that after the alleged occurrence, he along with other accused persons had taken the deceased to the hospital in his Amini Van. In fact, he only informed the defacto complainant about the occurrence. Further, now the second respondent laid charge sheet and the same has been taken cognizance in S.C.No.1 of 2019 and it is pending for trial. Under these circumstances, further investigation in this case does not require, since the statement of L.W.3 viz., Sekar @ Dhanasekaran has already been recorded by the second respondent. However, the petitioner can very well invoke the provisions under Section 319 of Cr.P.C., after examining the prosecution witnesses before the trial Court during the trial. If any incriminating material is available as against the said Sekar @ Dhanasekaran, the petitioner is at liberty to file petition under Section 319 of Cr.P.C., and on such filing of the petition, the trial Court is directed to consider the same and dispose it on merits and in accordance with law. The trial Court is also directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

8. With the above directions, the Criminal Original Petition in Crl.O.P.No.3551 of 2020 stands disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rts

To,

1. The Principal Sessions Judge,  
Salem.
2. The Superintendent of Police,  
Salem, Salem District.



3. The Inspector of Police  
Attiyampatti Police Station,  
Salem District.

4. The Inspector of Police,  
CBCID, Salem.

5. The Public Prosecutor,  
Mardas High Court,  
Chennai.

+1 cc to M/s.S.Gunalan, Advocate Sr.No. 29068

Crl.O.P.No.22232 of 2018  
and CRL.O.P.No.3551 of 2020  
& Crl.M.P.No.2087 of 2020

SSI (CO)  
RMP (05/11/2020)