

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.9507 of 2020
and Crl.M.P.No.4266 of 2020

M.Aruvi,
W/o. Murugan,
3/5, Mariamman Kovil Street,
Tiruvonnainallur Taluk,
Villupuram District. ... Petitioner

Vs.

1. The Superintendent of Police,
Villupuram District,
Villupuram.
2. The State Rep by its
The Inspector of Police,
Thiruvonnainallur Police Station,
Villupuram District,
In Crime No.630 of 2020.
3. The Additional Superintendent of Police,
Cyber Crime,
Masterplan Complex,
Inside Collectorate Building,
Villupuram - 605 602. ... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to issue direction directing the respondents to collect call details records (CDR) of the mobile numbers and confiscate the same and to retrieve the CCTV footage of Police Station dated 09.05.2020 to 12.05.2020 related in Crime No.630 of 2020 dated 10.05.2020.

For Petitioner : Mr.S.Saravana Kumar

For Respondents: Mr.S.Karthikeyan
Additional Public Prosecutor.

ORDER

This petition has been filed to direct the respondents to collect call details records (CDR) of the mobile numbers

Name	Mobile Numbers
Jayapal	9626832014
Raji	9095974724
Vennila	8524027176
Praveen	6385865685
Vikram	6369709223
Veeramani	9843712241
Murugan	9943399740
Vetrivel	9786728774
Sachinanantham	9958668808
Johnson	7904942768
Ramesh	9843374098

and confiscate the same and to retrieve the CCTV footage of Police Station dated 09.05.2020 to 12.05.2020 related in Crime No.630 of 2020 dated 10.05.2020.

2. The learned counsel appearing for the petitioner would submit that the petitioner is the wife of the first accused in Crime No.630 of 2020 registered for the offences under Sections 452, 341, 342, 294(b), 323, 302 of IPC 4A(1) of TNPHW Act. He further submitted that on 10.05.2020, the second respondent police along with his police party came to the residence of the petitioner and took the petitioner and her relatives to the police station for interrogation. Thereafter, the first accused with the assistance of his counsel surrendered before the police station at about 8.30 p.m., on 10.05.2020. It revealed from the CCTV footage fixed in the police station. Therefore, the first accused was never arrested by the second respondent. The confession statement of the accused and the mahazar were prepared in the police station and the Village Administrative Officer and the Village Menial were signed as witness only in the police station at about 12.45 p.m., on 10.05.2020. The victim died for several reasons, but unfortunately the prosecution created a different story as if the accused poured kerosene and set fire.

2.1. He further submitted that with assistance of one Vetrivel and Murugan, the victim mother Raji and her aunty Vennila were tutoring the deceased and had given false statement including dying declaration implicating the petitioner's husband as first accused. The parents of the victim cleverly focus the

case as if the accused had committed the murder and the investigation officer dealt with the case with an emotion basis. Even according to the FIR on 09.05.2020 at about 10.30 pm., one person Praveen entered into the defacto complainant's shop and knocked the door. At that time, there was a quarrel between the victim and her father, brother and other relatives in which, her brother sustained injuries. Therefore, he admitted in the hospital and the complaint was lodged before the second respondent on next day. He further submitted that the victim was tutored by her relatives and it was uploaded through Youtube in the social media. Unfortunately it was removed and implicated the husband of the petitioner as an accused. Therefore, the call details of those persons and the CCTV footage of the police station from 09.05.2020 to 12.05.2020 are very much essential for investigation. Therefore he prayed to allow this petition.

3. Per contra, the learned Additional Public Prosecutor filed counter and submitted that the present petition is not at all maintainable either in law or on facts for the reasons that in the present case, the investigation is already completed and the final report has been filed before the learned Judicial Magistrate Court and it is pending for committal in P.R.C.No.5 of 2020. More over, the petitioner has no locus standi to file this petition, since she is none other than the wife of the first accused and she is neither an accused nor a complainant. The crux of the complaint is that the defacto complainant Jayabal is an agriculturalist and also having 2 petty shops in Sirumadurai colony. The defacto complainant has two sons and two daughters. In the year 2013, the accused person, who are all his relatives, along with six others attacked his brother Kumar with knife, for which a case was registered in Crime No.596 of 2013 on the file of the second respondent and it is still pending. Therefore there was an enmity between the defacto complainant and the accused persons.

3.1. He further submitted that on 09.05.2020 at 10.30 p.m., one Praveenkumar asked beedi in the defacto complainant's shop and also assaulted his son Jayaraj on his ear, for which the defacto complainant and his wife went to Tirukoilur Government Hospital for giving treatment to his son by 11.00 p.m., and returned to home in the early hours on 10.05.2020. For the said occurrence, on 10.05.2020 at 10.00 a.m., the defacto complainant and his son Jayaraj went to Tiruvannainallore police station to lodge complaint and his wife went out to grazing their goats. While being so, the first accused along with the second accused trespassed into the defacto complainant's shop, where his elder daughter Jayashree was alone there. The accused persons assaulted her and also gagged her mouth with cloth, tied her hands and legs and poured petrol on her and set fire, then they closed the doors and ran away. On hearing the hue and cry of the

victim the neighbours rescued her and rushed to government hospital at Villupuram.

3.2. The learned Additional Public Prosecutor further submitted that after registration of FIR, the second respondent took up the investigation of this case and prepared the observation mahazar and rough sketch at 21.30 hrs in the presence of Village Administrative Officer. On intimation from the Government Medical College Hospital, Villupuram, on 11.05.2020, that the victim Jayashree was expired at 9.40 am., the Sections of the case were altered to under Sections 294(b), 341, 342, 452, 302 of IPC r/w 4A of Tamil Nadu Prohibition of (Harrassment of Women) Act. Thereafter the accused were arrested and remanded to judicial custody on 11.05.2020. During the course of investigation 44 witnesses were examined and the investigation was concluded on 09.06.2020 and then the respondent police filed final report and the same was taken on file in P.R.C.No.5 of 2020 on the file of the learned Judicial Magistrate-II, Ulundurpet. Now the case is pending for trial and thereafter he prayed for dismissal of this petition.

4. Heard Mr.S.Saravana Kumar, learned counsel appearing for the petitioner and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the respondents.

5. The petitioner is the wife of the first accused in Crime No.630 of 2020 registered for the offences under Sections 452, 341, 342, 294(b), 323, 324, 307 of IPC r/w 4A of Tamil Nadu Prohibition of (Harrassment of Women) Act. After registering FIR, the statement was recorded from the victim at Government Medical College Hospital, Villupuram by the learned Judicial Magistrate-I, Villupuram. Thereafter, on 11.05.2020, the victim was expired and the Sections were altered into 294(b), 341, 342, 452, 302 of IPC r/w 4A of Tamil Nadu Prohibition of (Harrassment of Women) Act. After completion of investigation the second respondent filed final report and the same has been pending for committal in P.R.C.No.5 of 2020 on the file of the learned Judicial Magistrate No.II, Ulundurpet. Now the petitioner being the wife of the first accused filed this petition seeking CCTV footage of police station and also call details from the second respondent police.

6. The investigation revealed that due to previous enmity the first and second accused conspired together to do away the life of the deceased and entered into shop on 10.05.2020 at 11. a.m., with kerosene with intention to commit murder. The second accused gagged the deceased mouth with towel and both accused tied her hands and legs. Then the first accused poured ketosene over her and the second accused lighted the matchbox and set fire on her. Thereafter, they went out after closing the door.

The victim succumbed to the injuries caused due to fire and died on 11.05.2020. There is absolutely no evidence to show that the deceased was tortured to implicate the accused persons by the relatives of the deceased. The dying declaration clearly revealed the entire truth and as such the present petition has been filed only to escape from the clutches of law.

7. Further the petitioner has absolutely no locus to seek such a prayer and the petition is not at all maintainable, since she is neither an accused nor a complainant. That apart, the second respondent already completed the investigation and also filed the final report before the learned Judicial Magistrate No.II, Ulundurpet, and the same is pending in P.R.C.No.5 of 2020 for committal. Therefore this petition is devoid of merits and liable to be dismissed.

8. In view of the above discussion, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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To

1. The Superintendent of Police,
Villupuram District,
Villupuram.
2. The Inspector of Police,
Thiruvannainallur Police Station,
Villupuram District,
3. The Additional Superintendent of Police,
Cyber Crime,
Masterplan Complex,
Inside Collectorate Building,
Villupuram - 605 602.
4. The Public Prosecutor
High Court, Madras

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AJS (CO)

RMP (08/10/2020)