

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.O.P.No.17229 of 2019
and Crl.M.P.No.8694 of 2019

M.Srinivasan,
S/o.Muthukrishnan
No.3/5, Silappathikaaram Street,
Anna nagar,
Chitlapakkam,
Chennai - 600 064. Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by the Commissioner of Police,
Veppery, Chennai - 600 007.
2. The Inspector of Police,
S-10, Pallikaranai Police Station,
Chennai - 600 100. Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to transfer the investigation in Crime No.1291 of 2018 on the file of the second respondent police to any other independent agency as may be fixed by this Court on the facts and circumstances of the case.

For Petitioner : Mr.S.Selvathirumurugan

For Respondents: Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

This petition has been filed seeking direction to direct the first respondent to withdraw the investigation in Crime No.1291 of 2019 on the file of the second respondent police and entrusted the same to any other independent agency for further investigation.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents police 1&2.

3. The petitioner herein is the father of the deceased. The case of the petitioner is that on 23.09.2018, for the death of his son viz., C.Balaji, the petitioner lodged complaint before the second respondent police. On receipt of the same, the second respondent registered a FIR in Crime No.1291 of 2018 under Section 174 of Cr.P.C., subsequently, the same has been closed by the second respondent police. In the said circumstances, the petitioner herein lodged a complaint before the Commissioner of Police stating that his son was died in suspicious circumstances. In support of his claim, the petitioner had specifically stated that during the time of Post Mortem, the Doctor collected the Viscera and for the reasons best known to them, the same has been sent to the Forensic Department with the delay of 4½ months. Therefore, the said circumstances create doubts, whether the investigation for the alleged occurrence had been conducted properly or not. Subsequent to the said representation given by the petitioner, the Commissioner of Police, Chennai, did not take any action. Therefore, the petitioner is before this Court with the prayer stated supra.

4. In respect of the submission made by the learned counsel appearing for the petitioner, the learned Additional Public Prosecutor appearing for the respondents 1 & 2 filed status report and made submission as the death is due to natural circumstances. In support of his contention, he would refer the opinion given by the Doctor, who conducted the Post Mortem which revealed the fact that the death is due to chronic lung disease probably interstitial lung disease and pulmonary hemorrhage and cardiac arrest. He would further submit that only after considering the opinion given by the Doctor, the second respondent closed the proceedings and therefore, the transferring of investigation from the second respondent to some other agency is not necessary.

5. Considered the rival submissions made by the learned counsel appearing on either side.

6. The petitioner while at the time of lodging the complaint before the police had stated that he was informed by the friends of his son as his son was having fits. On considering the said circumstances with the opinion given by the Doctor, the same was in support of the opinion given by the Doctor. The Doctor, who gave an opinion is a neutral person and also he is an expert and not having any interest either in favour of the prosecution or in favour of the petitioner.

7. In respect of sending the Viscera to the Forensic Department, in the status report, the second respondent clearly stated that during the Viscera examination, there was no poisonous substance detected. Therefore in the said

circumstances, sending Viscera to the Forensic Department with delay is not a ground for transferring the investigation from the second respondent.

8. In the light of the above discussions, this Court fairly believed the opinion given by the Doctor, who conducted the Post Mortem that the deceased was died due to Chronic lung disease probably interstitial lung disease, for which no further investigation is necessary.

9. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Police,
State of Tamil Nadu,
Veppery, Chennai - 600 007.
2. The Inspector of Police,
S-10, Pallikaranai Police Station,
Chennai - 600 100.
3. The Public Prosecutor
Madras High Court,
Chennai.

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MG(CO)
CB(11/12/2020)

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