



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 31.07.2020

Delivered on : 05.08.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

CRL OP(MD)No.7984 of 2020

M.Raju

... Petitioner

Vs.

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

2.The Deputy Superintendent of Police,
Eluppur, Pudukottai,
Pudukottai District.

3.The State Rep. by
The Inspector of Police,
Annavasal Police Station,
Annavasal, Pudukottai District.
(Crime No.227 of 2019)

4.The Inspector of Police,
CBCID, Pudukottai,
Pudukottai District.

... Respondents

PRAYER: Petition filed under Section 482 of Criminal Procedure Code, praying to transfer the investigation in Crime No.227 of 2019, dated 29.11.2019, pending on the file of the third respondent to the fourth respondent or any other investigation agency and to complete the investigation and file a charge sheet, within a time frame to be fixed by this Court.

For Petitioner

: Mr.T.Pon Ramkumar

For Respondents

: Mr.S.Chandrasekar

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking a direction to change the investigation in Crime No.227 of 2019, dated 22.11.2019, pending on the file of the third respondent to the file of the fourth respondent or to any other investigation agency.

2.The case of the prosecution is that on 13.09.2011, one Malarmani purchased a land from one Chokkanathan. In this regard, one Karupayee and his son viz., Chandran repeatedly approached Malarmani to resell the said land. Due to unwillingness expressed by the said Malarmani, a dispute arose between her and the said Karupayee and others. Subsequently, the said Malarmani died. Only in the said circumstances, the third respondent herein registered a case in Crime No.227 of 2019, for the offences punishable under Sections 279 and 304-A of I.P.C, for the alleged death of Malarmani.

3.The learned counsel appearing for the petitioner would submit that without identifying the real culprits, the third respondent attempted to close the investigation and the prime accused has not yet been arrested till date. Furthermore, the third respondent has



not altered the F.I.R. under section 173 of Cr.P.C. and therefore, the learned counsel prayed for allowing this petition.

4.The learned Additional Public Prosecutor appearing for the respondent police would submit that when at the time of registering the case, the de-facto complainant assertively stated in the complaint that the death of Malarmani was due to road accident. Therefore, the case was registered by the third respondent for the offences punishable under Sections 279 and 304-A of I.P.C. As of now, investigation is still pending and the respondent police are taking steps to trace out the vehicle of the accused, for completing the investigation. In the said circumstances, the question of invoking Section 173 of Cr.P.C. is unnecessary and the same is not relevant to the case registered in Crime No.227 of 2019.

5.Upon considering the arguments advanced by the learned counsel on either side and on going through the copy of the F.I.R., dated 29.11.2019, it is seen that the same has been registered under Sections 279 and 304-A of I.P.C. Further, the said F.I.R. reveals the fact that the very same petitioner herein made an averment as an unknown vehicle dashed against the deceased Malarmani and therefore, he requested the Police Officer to identify the vehicle and investigate the case. In fact, the F.I.R., is the earliest document for this case. Though the petitioner alleged so many allegations against one Karupayee and Chandran, he has not produced even a single document for proving that the deceased having previous enmity with the said persons. After registering the case for the offences under Sections 279 and 304-A of I.P.C., it is the duty of the investigation officer to find out the vehicle involved in the alleged occurrence and further, to identify the person, who drove the vehicle at the time of accident. Therefore, for identifying the cause of death, it is not necessary to alter the said F.I.R. for the offence under Section 173 of Cr.P.C. Therefore, the submission made by the learned counsel appearing for the petitioner, is not acceptable. However, the deceased, being a old lady and also due to the fact that the case has been registered in the year 2019, it would be appropriate to give a direction to the second respondent to monitor the investigation in Crime No.227 of 2019.

6.Accordingly, this Criminal Original Petition is dismissed with a direction to the second respondent, Deputy Superintendent of Police, Eluppur, Pudukottai District, to monitor the investigation of the case till the filing of final report by the third respondent.

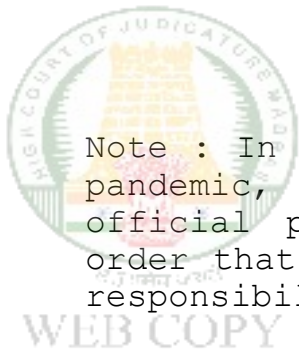
Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Superintendent of Police,
Pudukottai,
Pudukottai District.
- 2.The Deputy Superintendent of Police,
Eluppur, Pudukottai,
Pudukottai District.
- 3.The Inspector of Police,
Annavasal Police Station,
Annavasal,
Pudukottai District.
- 4.The Inspector of Police,
CBCID, Pudukottai,
Pudukottai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T. PON RAMKUMAR, Advocate (SR-13614[F]

CRL OP(MD)No.7984 of 2020
05.08.2020

SMA/14/08/2020/3P/7C