



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

WEB COPY

Crl.O.P. (MD)No.9379 of 2020

and

CRL MP (MD)No4396 & 4397 of 2020

Ravindranath Tagore

... Petitioner

Vs.

1.The Commissioner of Police,
Trichy,
Trichy District.

2.The Inspector of Police,
Cantonment Police Station,
Trichy District.

3.The Superintendent of Police,
CB CID,
Madurai.

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the respondents to withdraw the investigation in Crime No.27 of 2020, on the file of the 2nd respondent and transfer the investigation to the 3rd respondent with a direction to conduct proper investigation, under the supervision of any Senior level Independent Police Official.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.S.Chandrasekar

Addl.Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the 1st respondent to withdraw the investigation in Crime No.27 of 2020, on the file of the 2nd respondent and entrust the same to the 3rd respondent for further investigation, under the supervision of any senior level independent Police official.

2. The case of the petitioner is that the deceased Senthilkumar was his son. On 19.01.2020, on receipt of information about the death of his son Senthilkumar, the petitioner herein, on the same day, rushed to Trichy and lodged a complaint before the 2nd respondent at 12.00 Noon. Subsequently, a case has been



registered in Crime No.27 of 2020, by mentioning the date and time as 19.01.2020 at 09.00 a.m. Before the death, the said Senthilkumar fell in love with one Kowsalya and they got married during the year 2014 and thereafter, they have been blessed with one female child, aged about 3-1/2 years and one male child, aged about 1-1/2 years. The petitioner's son and daughter-in-law were working in various companies. However, after sometime from the date of marriage, there was a difference of opinion arose between the petitioner's son and the said Kowsalya.

3. One day before the date of occurrence i.e., on 18.01.2020, at about 9.00 p.m., Mrs.Vanitha and one Mrs.Mariya, who are the co-employees of the petitioner's son, met the petitioner's son and only thereafter, the alleged occurrence had happened. In the said circumstances, even after knowing the same, the second respondent, during the time of registering the case, registered the case under Section 174 of Cr.P.C. alone. Thereafter, suspecting over the cause of death, the petitioner sent representations to various authorities and all are ended in vain.

4. According to the petitioner, in the postmortem report, the Doctor, who conducted the postmortem, narrated the injuries, as follows:-

"The external signs of asphyxia ligature mark abrasions and ecchymosed, subcutaneous tissues and its mark injury to the muscle of the neck, the fracture of larynx and trachea very rare, scratches, abrasion, bruises on the face, neck and other parts etc., are not narrated. "

5. Therefore, considering the nature of injuries, it would not be possible that the said injuries are due to suicide. So, it is necessary to exhume the body and re-conduct the postmortem. Further, if the investigation is not transferred from the file of the 2nd respondent to any other agency, the real culprit will be allowed to go scot free. Accordingly, the petitioner prayed to allow this application.

6. This Court, on 09.09.2020, while at the time of considering the petition filed by the petitioner, directed the learned Additional Public Prosecutor, to file a status report in respect of the investigation conducted in Crime No.27 of 2020, on the file of the 2nd respondent police.

7. In response to the direction given by this Court, the learned Additional Public Prosecutor filed a status report in which it was stated as during the time of investigation, the 2nd respondent examined eight witnesses and recorded their statements under Section 161(3) of Cr.P.C., According to him, on 18.01.2020, one Maria and her son visited the house of the deceased and found the door was locked and thereafter though they knocked the door



repeatedly, the deceased was not opened the door. Hence, the said Mariya requested one Ayesha, who is doing gardening work in the deceased residence, to inform about her visit to the deceased. Further, on 19.01.2020, the deceased wife called her over mobile phone and told her that she tried her husband's mobile phone, but he did not pick up the call, hence, requested to look over the whereabouts of her husband. Ultimately, the Investigation Officer came to the conclusion that the death is due to suicide and after obtaining the viscera report on 13.02.2020, he closed the investigation, as 'action dropped'.

8. I have heard Mr.R.Murugan, the learned counsel appearing for the petitioner and Mr.S.Chandrasekar, the learned Additional Public Prosecutor for the respondents .

9. Upon considering the arguments advanced by the learned counsel appearing on either side, it is not in dispute that as of now, the investigation in Crime No.27 of 2020 had been closed, as 'Action Dropped'. In the said circumstances, now, on considering the prayer sought for by the petitioner, he has not stated any specific instances, which are necessary for interfering in the final report filed by the 2nd respondent. In fact, only after receiving the viscera report from the concerned Department, the investigating officer has closed the investigation.

10. The interesting point, which was indicated by the learned Additional Public Prosecutor is that when at the time of giving final opinion in respect to the cause of death, the Doctor, who conducted the postmortem, clearly gave an opinion that 'the deceased would have appear to have died due to asphyxia, as a result of hanging'. Further, the said opinion has been given by the Doctor only after seeing the result of viscera report. More than that, for the occurrence dated 19.01.2020, this application has been filed by the petitioner only on 31.08.2020, after a lapse of six months. In fact, in the petition filed by the petitioner, the petitioner has not stated any specific reason for the delay in filing this Criminal Original Petition.

11. Further case of the petitioner is that, he acquired the knowledge about the occurrence on the very next day itself. So, if really the petitioner is aggrieved, he has to file this application immediately after the completion of the ceremonies. More than that, since the opinion given by the Doctor is against the petitioner, there is no necessity arising in interfering with the decision taken by the 2nd respondent. Therefore, I am of the considered opinion that the petition filed by the petitioner is devoid of merits and therefore, the same is liable to be dismissed.



12. In fine, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are also dismissed.

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// True Copy //

Sd/-

Assistant Registrar (ADII)

/ /2020

Sub Assistant Registrar(CS)

MPK

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 Commissioner of Police,
Trichy,
Trichy Distrit.
- 2.The Inspector of Police,
Cantonment Police Station,
Trichy District.
- 3.The Superintendent of Police,
CB CID,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R. MURUGAN, Advocate (SR-17911[F] dated 24/09/2020)

Crl.O.P.(MD)No.9379 of 2020
23.09.2020

SCR(CO)
KB(09.10.2020) 4P 6C