



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE **R. PONGIAPPAN**

Crl.O.P.[MD]No.9411 of 2020

Alaguraj

... Petitioner

Vs.

1.The Deputy Inspector General of Police,
CBCID,
Chennai.

2.The Superintendent of Police,
Karur District,
Karur.

3.The Deputy Superintendent of Police,
Kulithalai Taluk,
Karur.

4.The Inspector of Police,
Thogamalai Police Station,
Karur District.

5.Palanivel

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to withdraw the investigation of the FIR No.43 of 2020, dated 16.03.2020, on the file of the 4th respondent and transferring the same to the 1st respondent for investigation.

For Petitioner : Mr.R.Murugappan

For Respondents : Mr.S.Chandrasekar
(R1 to R4) Addl.Public Prosecutor

O R D E R

This criminal original petition has been filed seeking a direction directing to withdraw the investigation of the FIR No.43



of 2020, dated 16.03.2020, on the file of the 4th respondent and transferring the same to the 1st respondent for investigation.

2. The learned counsel appearing for the petitioner would submit that in earlier, due to panchayat election, the deceased and the 5th respondent is having previous enmity and thereby, there may be a chance for murdering the deceased by the 5th respondent. Though this Court has already directed the 3rd respondent to monitor the investigation, so far no progress is made in the investigation conducted by the 4th respondent. Therefore, change of investigation is necessary in Crime No.43 of 2020.

3. Per contra, the learned Additional Public Prosecutor appearing for the respondent police, on instructions, would submit that while at the time of registering the case, a case has been registered for the offence punishable under Sections 279 and 337 of IPC. Subsequently, during the pendency of investigation, death had happened to the petitioner's brother viz., Vadivel. Therefore, the section of law was altered into under Sections 279 and 304 of IPC. Further he would submit that in earlier, while at the time of passing an order in Crl.O.P.(MD)No.5759 of 2020, dated 09.06.2020, this Court directed the 3rd respondent to monitor the investigation conducted by the 4th respondent. Therefore, filing the application, directing the Deputy Inspector General of Police, CBCID, Chennai, to conduct the investigation is nothing but an abuse of process of law.

4. Upon considering the arguments advanced by either side, it is relevant to see the averments found in the impugned FIR registered in Crime No.43 of 2020. In the said FIR, it was averred that while at the time the deceased drove the vehicle, the 5th respondent herein was riding the same motor cycle as a pillion rider. Further, the deceased, when at the time driving the two wheeler, on seeing the lorry, suddenly, attempted to turn the motor cycle to the left side of the road and as a result of which, the two wheeler, which was driven by the deceased was fell down and ultimately, the 5th respondent and the deceased sustained injuries. Since the FIR is the earliest document to the occurrence, we cannot say that the 5th respondent mentioned false averments in the complaint given by him before the 4th respondent. In the petition filed by the petitioner, the petitioner did not indicate the special circumstances warranting the interference by this Court in respect to the investigation. Specifically, the petitioner has not indicated the previous enmity having by the 5th respondent with the deceased by producing the relevant records.

5. Therefore, in the absence of relevant materials, which is necessary to consider the prayer sought for by the petitioner, filing the application is unnecessary. Moreover, the submission made by the learned Additional Public Prosecutor is made clear that already the 3rd respondent herein is monitoring the investigation conducted by the 4th respondent, as directed by this Court. Therefore,



the circumstances which arise in and around the investigation do not warrant interference. Hence, this Criminal Original Petition is dismissed.

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// True Copy //

Sd/-

Assistant Registrar (CS-I)

/ /2020

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 Deputy Inspector General of Police,
CBCID,
Chennai.
- 2.The Superintendent of Police,
Karur District,
Karur.
- 3.The Deputy Superintendent of Police,
Kulithalai Taluk,
Karur.
- 4.The Inspector of Police,
Thogamalai Police Station,
Karur District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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MPK

SDS (21.09.2020) 3P-6C