



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2020

CORAM:

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

Crl.O.P.(MD)No.9726 of 2020

K.Panchali

... Petitioner/
Defacto Complainant

Vs

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

2.The Inspector of Police,
Thirumayam Police Station,
Thirumayam,
Pudukkottai District.
Crime No.367 of 2020

3.The Deputy Superintendent of Police,
CBCID,
Pudukkottai.

... Respondents/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to transfer the investigation in Crime No.367 of 2020 pending on the file of the second respondent to the file of the third respondent with a direction to investigate into the matter and file a charge sheet in accordance with law.

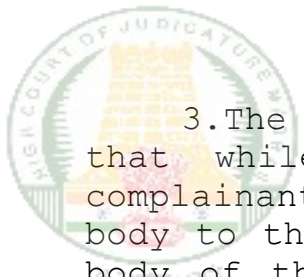
For Petitioner : Mr.J.Sulthan Basha
for M/s.Ajmal Associates

For Respondents : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking a direction to transfer the investigation in Crime No.367 of 2020 pending on the file of the second respondent to the file of the third respondent with a direction to investigate into the matter and file a charge sheet in accordance with law.

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



3.The learned counsel appearing for the petitioner submitted that while at the time of occurrence, though the de-facto complainant and others prevented the accused for taking the dead body to the cremation centre, the accused forcibly taken the dead body of the deceased and performed the cremation. Though it was complained by the petitioner to the police officer, who conducted the investigation, so far, except 2 accused, none of the accused has been secured. Further, the case has been registered for the offence under Section 306 IPC, which is contrary to the averments found in the complaint given by the petitioner to the second respondent. Therefore, the transfer of investigation is necessary for rendering the real justice.

4.In response to the submission made by the learned counsel appearing for the petitioner, the learned Additional Public Prosecutor appearing for the respondent police 1 to 3, on instructions, would submit that upon complaint given by the petitioner, the second respondent registered the case in Crime No.367 of 2020 for the offences under Sections 143, 176 and 201 IPC, and Section 51(b) of Disaster Management Act. During the time of investigation, the Section of law has been altered into one under Sections 143, 176, 201 and 306 IPC. He would further submit that there are totally 7 accused in the above referred case, out of which, the second accused was secured and remanded to judicial custody. Therefore, no infirmity on the side of the second respondent in conducting the investigation in respect to the crime No.367 of 2020. Therefore, he prayed for dismissal of the petition.

5.Upon considering the submissions made on either side, it is relevant to see that the averments found in the First Information Report that the de-facto complainant has not stated anything about the first accused, who is responsible for the death of her daughter and otherwise, if really the petitioner knows that her daughter is likely to be murdered by the accused, nobody prevented him from lodging a complaint against the accused, by mentioning the said murder. But, in this case, as of now, some of the accused yet to be secured for conducting a detailed enquiry. Further more, though it was prayed by the petitioner that change of investigation is necessary, the learned counsel for the petitioner would submit that it would suffice, if a direction is given to the Deputy Superintendent of Police, Ponnamaravathi, to monitor the investigation in the case in Crime No.367 of 2020.

6.Upon considering the facts and circumstances of the case, it is a case under investigation and it cannot be stated that the averments made by the petitioner are false one. It is the duty of the investigating officer to find out the case and otherwise, it is not a time to direct the second respondent to proceed with the



investigation in a particular way, as preferred by the petitioner. It is appropriate to direct the second respondent to conduct investigation, according to the materials collected and therefore, I am of the considered opinion that it would be appropriate to issue a direction to the Deputy Superintendent of Police, Ponnamaravathi, to monitor the investigation, conducted by the second respondent in Crime No.367 of 2020.

7.This Criminal Original Petition is allowed accordingly.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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,
Pudukkottai District, Pudukkottai.
- 2.The Inspector of Police,
Thirumayam Police Station,
Thirumayam, Pudukkottai District.
- 3.The Deputy Superintendent of Police,
CBCID, Pudukkottai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to

The Deputy Superintendent of Police,
Ponnamaravathi.

(to monitor the investigation,
conducted by the second respondent
in Crime No.367 of 2020)

Crl.O.P.(MD)No.9726 of 2020
14.09.2020

SCR(CO)

TR(28.09.2020) 3P 6C