



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2020

CORAM:

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

Crl.O.P. [MD]No.9838 of 2020

S.D.Gandhi

... Petitioner/De facto complainant

Vs.

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

2. The Inspector of Police,
Alangulam Police Station,
Tenkasi District.

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to transfer the investigation of the case in Crime No.277 of 2020, on the file of the second respondent to any other Investigation Agency and to conduct fair investigation.

For Petitioner : Mr.A.Sankarasubramanian

For Respondents : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking a direction to direct the first respondent Police to withdraw the investigation in Crime No.277 of 2020, on the file of the second respondent and entrust the same to any other Investigating Agency, for proper investigation.

2. The learned counsel appearing for the petitioner would submit that though the case has been registered with a delay, the second respondent Police / Investigation Officer, after registering the case has not altered the Sections of law, as per the nature of injury sustained by the victim. According to him, due to the



alleged occurrence, the petitioner / victim / *de facto* complainant sustained fractures, for which, the second respondent Police herein, has to register a case for the offence punishable under Sections 326 and 307 of I.P.C. But instead of doing the same, he registered the case only for the offence punishable under Sections 324 and 323 of I.P.C. Therefore, the manner of investigation conducted by the second respondent Police created a suspicious circumstance in the minds of the petitioner and therefore, he prayed to change the investigation.

3. The learned Additional Public Prosecutor appearing for the respondents / Police would submit that in the above referred case, so far investigation has not been completed. Further, at the time of registering the case, the offence punishable under Sections 109, 120B, 448, 294(b), 324, 323 and 506 (ii) of I.P.C, have been registered against the accused. He would further submit that the Investigation Officer is ready to alter the Sections of law after seeing the wound certificate, which has been issued by the Doctor, who treated the victim. He would further submit that when at the time of considering the Anticipatory bail application filed by the accused in this case, the learned Judge directed the second respondent not to arrest the accused till 18.09.2020 and therefore, the Investigation Officer / second respondent Police is not in a position to secure the accused.

4. Upon considering the submissions made by the learned counsel on either side, it is not in dispute that for the alleged occurrence, which had happened on 25.03.2020, a case has been registered only after three months. What it was stated on the side of the petitioner is that immediately after the occurrence, the victim has taken to the Police Station from the Government Hospital, but in order to substantiate the same, no document has been produced on the side of the petitioner. However, the learned Additional Public Prosecutor appearing for the respondents admits that after registering the case, none of the witnesses have been examined by the second respondent and the statements, which pertains to the said witnesses have also not been recorded. The said attitude shown by the Investigation Officer reveals the fact that he has conducted the investigation in lethargic manner in this case.

5. Therefore, it is appropriate to direct the Deputy Superintendent of Police, Alangulam, Tenkasi District, to monitor the investigation conducted by the second respondent in Crime No.277 of 2020. Further, the second respondent is directed to complete the investigation in Crime No.277 of 2020.

6. This Criminal original Petition stands disposed of, with a direction to the Deputy Superintendent of Police, Alangulam, Tenkasi District, to monitor the investigation conducted by the second respondent in Crime No.277 of 2020 and further, the second



respondent is directed to complete the investigation in Crime No.277 of 2020, within a period of four months from today (i.e., 16.09.2020), and file a final report before the concerned Jurisdictional Magistrate, for further action.

WEB COPY

Sd/-

Assistant Registrar (C.O)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

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 Superintendent of Police,
Alangulam, Tenkasi District.
2. The Superintendent of Police,
Tenkasi District, Tenkasi.
3. The Inspector of Police,
Alangulam Police Station,
Tenkasi District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
CrI.O.P.[MD]No.9838 of 2020
Dated:16.09.2020

SE (CO)
CS (29.09.2020) 3P 5C