



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.12.2020**

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P.(MD)No.11069 of 2020

and

Crl.M.P(MD) No.5027 of 2020

K.Dinakaran

..Petitioners

Vs.

- 1.The State rep by
The Superintendent of Police,
Karur District,
Karur.
- 2.The State rep by the
Inspector of Police,
Velayuthampalayam Police Station,
Velayuthampalayam,
Karur District,
Crime No.279 of 2019.
- 3.The Inspector of Police,
CBCID Karur District,
Karur.

..Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to transfer the investigation in Crime No.279 of 2019 dated 26.09.2019, on the file of the 2nd respondent to the 3rd respondent or any other competent authority, on the basis of the petitioner's representation dated 17.09.2020.

For Petitioner : Mr.R.Shankar Ganesh

For Respondents : Mr.V.Neelakandan

Additional Public Prosecutor(Crl.side)

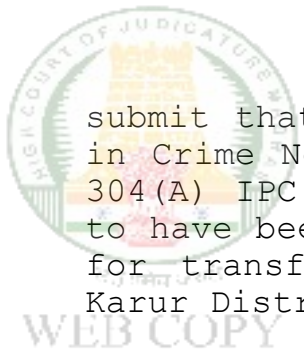
O R D E R

Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor(Crl.side) appearing for the respondents.

2.This Criminal Original petition has been filed for transfer the investigation in Crime No.279 of 2019 dated 26.09.2019, on the file of the 2nd respondent to the 3rd respondent or any other competent authority, on the basis of the petitioner's representation dated 17.09.2020.

3.The learned counsel appearing for the petitioner would

<https://hcservices.ecourts.gov.in/hcservices/>



submit that based on the complaint given by the petitioner, a case in Crime No.279 of 2019 has been registered under Sections 279 and 304(A) IPC. The grievance of the petitioner is that the facts said to have been mentioned in the FIR are false and hence he has sought for transfer of investigation to the Inspector of Police, CBCID Karur District, Karur.

4.This Court directed the learned Additional Public Prosecutor to file a Status Report and the Status Report has also been filed by the Superintendent of Police, Karur District, which reads as follows:-

"4. I submit that, after the registration of the then Inspector of Police namely Velusamy took up the investigation and he went to the place of occurrence at about 11.30 am and prepared observation mahazar and Rough sketch in the presence of witnesses namely Malaiappan and Karpagam and their statements were obtained under Section 161(3) Cr.P.C. Thereafter he examined the defacto complainant, the eye witnesses namely Sathiskumar and Ravichandran and other witnesses namely Dinakaran, Ramachandran, Eshwaran, Anand and Dhandapani and their statements were obtained under 161 (3) Cr.P.C.

5.I submit that, the eye witnesses namely Sathishkumar and Ravichandran were interroogated and their statements have been recorded under Section 161(3) of Cr.P.C. In their statement they have categorically stated that they have seen the deceased, while he was riding the motorcyle from east to west at Thalavapalaiyam, Aathor road and due to his rash riding, he dashed against the telephone post and fell down. On seeing that, both of them rushed for his rescue, later they identified that he is a student of Kumarasamy Engineering College. Thereafter they called the ambulance and sent him to the Amaravathi Hospital for treatment. In the Hospital the deceased succumbed to the injuries and died on the same day itself.

6.I submit that, the doctor who conducted autopsy on the deceased was examined and her statement was obtained. She has opined about the cause of death as follows, "The deceased would have died of shock and hemorrhage due to head injury". During investigation, the investigation officer has examined 15 witnesses and recorded their statements. It reveals that on 26.09.2019 the deceased ride the motorcycle on the Thalavapalaiyam-Authoor road in a rash and negligent manner and dashed against a telephone pole, which stands on the left side of the road and fell down and sustained servere head injury and



investigation officer concluded the investigation and referred the case as charge abated (CA) on 24.10.2019.

7.I submit that on perusing the documents annexed in this petition. I came to know the petitioner claims that he has sent a representation dated 05.12.2019 to my office, in fact no such representation was received by my office as claimed by the petitioner, to that effect no proof was also annexed in the typed set of papers filed by the petitioner. However, the representation of the petitioner dated 17.09.2020 was received by our office on 19.09.2020 and we assigned petition number as G6/656000/2020, dated 19.09.2020 and the same was forwarded to the concerned DSP, in turn he has also forwarded the same to the 2nd respondent police for enquiry. On receipt of the same, the 2nd respondent issued summon to the petitioner and he was asked to appear 2nd respondent police on 27.10.2020 at 10.00 am.

8.I submit that the petitioner is under the apprehension that he will not be entitled for any compensation from the Court of law for his son's death, if the criminal case is closed as action dropped by the police and that stimulates the petitioner to create a new case as if a TATA ACE vehicle loaded with iron road hit the deceased while he was riding the two wheeler. The Investigation Officer in this case investigated the eye witness and their statements reveals the fact that the deceased voluntarily contributed him to the accident and no other vehicle was involved in this case. The petitioner is also raising this false allegation after one year of the accident to make out a case before the civil court for getting compensation."

5.Admittedly, the petitioner has also given the TATA vehicle number, after a period of one year. Though the petitioner has lost his son, this Court is not able to find any material to grant the relief to the petitioner. I am satisfied with the way in which the investigation was completed and the file has been closed as action dropped. I do not find any infirmity in the registration of the First Information Report and the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

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,
Karur District,
Karur.
- 2.The State rep by the
Inspector of Police,
Velayuthampalayam Police Station,
Karur District,
Crime No.279 of 2019.
- 3.The Inspector of Police,
CBCID Karur District,
Karur.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.11069 of 2020
and
Crl.M.P(MD) No.5027 of 2020
07.12.2020

ES (CO)
KK(18.02.2021) 4P 5C