



WEB COPY

Crl.O.P.(MD)No.16184 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.03.2020

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P. (MD)No.16184 of 2016

S. Palavesam

... Petitioner

Vs.

1. The Superintendent of Police
Tirunelveli District
Tirunelveli

2. The Inspector of Police
Perumalpuram Police Station
Palayamkottai
Tirunelveli District

3. The Deputy Superintendent of Police
CBCID, Tirunelveli District

... Respondents

PRAYER: Criminal Petition filed under Section 482 of Cr.P.C., to transfer the investigation from the 2nd respondent to the 3rd respondent so that the inquiry will be conducted in a free and fair manner and thereby will upheld justice

For Petitioner	:	Mr.M.P.Senthil
For Respondents	:	Mr.C.Chandrasekar
No.1to 3		Additional Public Prosecutor

ORDER

This petition has been filed to transfer the investigation from the 2nd respondent to the 3rd respondent so that the inquiry will be conducted in a free and fair manner and thereby will upheld justice.

2. The petitioner herein is the father of one Ganesan who died when he was taken into custody by the second respondent police on 20.10.013. According to the petitioner his son was taken to the police station by the second respondent police in the patrol vehicle bearing Reg. No.TN 72 G 0774 while he was



quarreling with one Nagarajan and two others in a public place. In the station his son developed chest pain so he was taken to private nursing home by name Karthik Nursing Home by the police for giving treatment but there he was declared dead due to cardiac arrest. The case registered by police under Section 176 of Cr.P.C was forwarded to the learned Judicial Magistrate No.I, Tiruenelveli. Alleging that he is not aware of the outcome of the investigation and he suspect custodial violence, has filed this criminal original petition to transfer of investigation from the file of the second respondent police to the file of the file of the third respondent/CBCID.

3. The learned Additional Public Prosecutor would submit that the learned Magistrate who perused the closure report filed by the second respondent police in Crime No.648 of 2013 registered under Section 176 of Cr.P.C regarding the unnatural death of Ganesan was not satisfied with the final report and ordered further investigation. The further investigation was taken up by the second respondent and the same was conducted by one Kaliappan, Inspector of Police and he has again reiterated the earlier conclusion and submitted the closure report to the learned Judicial Magistrate No.I, Tirunelveli. The defacto complainant was also informed about the closure report. The defacto complainant who is the petitioner herein has filed the protest petition recently. The learned Magistrate on receiving the protest petition has summoned the parties for enquiry and the enquiry is fixed on 20.03.2020.

4. In the light of the above subsequent development happened after filing of this Criminal Original Petition in the year 2016, this Court is of the view that instead of expressing any opinion on the merits of the case, shall direct the learned Magistrate to apply his judicial mind in respect of the protest petition filed questioning the final report of closure and take appropriate decision in accordance with law. It is open to the petitioner herein to resort to the legal redressal in accordance with law if he is not satisfied with the finding of the learned Magistrate on his protest petition.

Sd/-

Assistant Registrar (C.S.II)

/True Copy/

Sub Assistant Registrar



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To

1. The Superintendent of Police
Tirunelveli District
Tirunelveli
2. The Inspector of Police
Perumalpuram Police Station
Palayamkottai
Tirunelveli District
3. The Deputy Superintendent of Police
CBCID, Tirunelveli District
4. The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai

+1cc to Mr.M.P.Senthil, Advocate Sr.No.12559

AKM/07.05.2020 /3P-6C/

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