

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2021

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Cr1.O.P.No.2005 of 2021

Elizebeth,

W/o.John Kennedy

.. Petitioner/Defacto Complainant

vs.

1. State rep. By

The Inspector of Police, Law and Order,
P5, M.K.B.Nagar P.S.,
Chennai-600 039.

.. Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to alter the FIR in Crime No.1141 of 2020 dated 22.11.2020 on the file of 1st respondent from offence u/s.174 of IPC and to include Sections 294 (b), 305, 375, 376, 406, 420, 506 (i) and relevant provisions of POCSO Act.

For Petitioner : Mr.C.Bala Subramaniam

For Respondent : Mr.M.Mohamed Riyaz

Addl. Public Prosecutor

ORDER

This petition has been filed seeking to alter the FIR registered in Crime No.1141 of 2020 on the file of the first respondent.

2. The petitioner is the mother of the deceased minor girl, who was aged about 16 years at the time when she committed suicide by self immolation.

3. The grievance of the petitioner is that the accused person namely Mahesh, who is an Armed Reserved Police, was working as Gun man at Puzhal Prison. He seems to have developed a relationship with the minor girl aged about 16 years and it is alleged that he had taken her out on many occasions and had sexual intercourse and the daughter of the petitioner also got pregnant twice and it was aborted. The accused person started avoiding the minor girl and the same resulted in a complaint before the Deputy Commissioner of Police, Pulianthope, Chennai. The victim was directed to meet the Inspector of Police, All Women Police Station, MKB Nagar. No action was taken and it seems that the accused person started causing threat to the minor girl. The minor girl was not able to take it any longer and on 19.11.2020, she committed suicide by self-immolation and she died on 22.11.2020.

4. The petitioner gave a complaint in this regard to the first respondent and an FIR was registered in Crime No.1141 of 2020 on 22.11.2020 under Section 174 of Cr.P.C. Since there was no progress in the investigation, the present petition has been filed seeking a direction to the respondent to alter the FIR and to add the necessary offences. A status report was filed by the first respondent in this case. The relevant portions in the status report are extracted hereunder:

"4. I submit that during the course of investigation, Sub Inspector of Police went to the scene of occurrence, drew rough sketch, prepared observation mahazar in the presence of witnesses namely Tr.Amulu and Tr.Kuna also examined the following witnesses and recorded their statements:

(i) Tr.Elizabeth-Defacto complainant/ Petitioner herein

(ii) Tr. Clinton-Brother of the Deceased

(iii) Tmt.Komath, (iv) Tmt.Kopi-Tenant of the Deceased

(v) Tr.Sivakumar, (vi) Tr.Janaki-Same Village Police

Witnesses 1 to 3 corroborate the same version of the complaint.

5. I submit that during the course of investigation, on 23.11.2020, I have obtained Post Mortem Certificate from Professor of Forensic Medicine Hospital, Kilpauk Medical College and recorded his statement, in which he stated that "final opinion the deceased would to have died of Septicemia due to thermal burns injury."

6. I submit that during the course investigation, the deceased aged about 16 years and she got love affair with one Magesh through face book and same was refused by her family members. While so, deceased went to A.W.P.S., P5, M.K.B.Nagar Police Station, Chennai with regard to she need to marriage with above said Magesh and also given oral complaint. Since the concerned Police enquired with deceased and Mahesh at that time concerned police warned the both parties since the deceased below the aged of 16 years. In that time deceased and defacto complainant has no allegation against Mahesh. Thereafter the both parties never contacted through face book and mobile themselves. Due to the concerned Police was warned parents of the deceased and Mahesh. Since there is no

communication between the deceased and Mahesh. After the warning of A.W.P.S. Police the deceased went to her friends house Sangeetha and spoke that Mahesh was changed his mobile number and he was not contacting with deceased for last 39 days and also cheated by the deceased. The deceased got mentally depressed because the deceased was not able to contact with Magesh. While so 19.11.2020 the deceased as usually went to the job and returned to home and the deceased was dislike to stay her own house. Since the deceased was plan to vacate house and same was refused by her parents and both of them vide petitioner and brother of deceased beaten her and locked her inside their house. The above reasons deceased committed suicide by kerosene on herself. For the reasons stated above, at this stage, this petition is not maintainable and the same has to be dismissed."

5. Heard learned counsel for the petitioner and learned Additional Public prosecutor for the respondents.

6. This is yet another case where a minor girl has been lured by the accused person by using face book as a medium. The minor girl was aged about 16 years and she seems to have fallen into the trap of the accused person. The status report reads as if nothing happened between the accused person and the minor girl. However, the allegations in the transfer petition are serious and it is alleged that the daughter of the petitioner got pregnant twice and it was aborted.

7. In the considered view of this Court, the respondent has not taken any serious efforts to investigate this case. The respondent has prepared a status report in a very casual manner and it is clear that the respondent is going to close the case.

8. The accused person in this case is an Armed Reserve Police who is working as a Gunman at Puzhal Prison. It is possible that he may be able to influence the investigation, if it is carried out by the regular police. It is important to ensure that the entire truth is found out with a proper investigation by an independent agency.

9. In view of the above discussion, this Court is inclined to transfer the investigation in this case to the file of CBCID. The respondent is directed to hand over the entire case diary to the Superintendent of Police, CBCID, Chennai within a period of two weeks from the date of receipt of a copy of this order. Immediately, on receipt of case

diary, the case shall be assigned to an officer not less than the rank of Inspector of Police, CBCID and thorough investigation shall be conducted and final report shall be filed as expeditiously as possible.

10.This Criminal Original Petition is disposed of with the above directions.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Kal

To

1. The Superintendent of Police,
CBCID, Chennai.
2. The Inspector of Police, Law and Order,
P5, M.K.B.Nagar P.S.,
Chennai-600 039.
3. The Public Prosecutor,
High Court of Madras,
Madras.

Cr1.O.P.No.2005 of 2021

PMK (CO)
GN (29/03/2021)

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