

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.03.2021

C O R A M

The Hon'ble Mr. Justice N.ANAND VENKATESH

Crl.O.P.No.2423 of 2021

Raja Raman, Son of Pakkiri

... Petitioner

Vs.

1. The Superintendent of Police,
Office of the Superintendent of Police,
Chidambaram-608 001.
2. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Chidambaram.
3. The Inspector of Police,
Kumaratchi Police Station,
Cuddalore District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to transfer the investigation in Crime No.94 of 2020 from the 3rd respondent to the 2nd respondent herein.

For Petitioner : M/s.Sharath Chandran

For Respondents : Mr.M.Mohamed Riyaz

O R D E R

This petition has been filed seeking for transfer of investigation in Crime No.94 of 2020 pending investigation on the file of the third respondent.

2. The case of the petitioner is that the 1st respondent's eldest daughter was married to one Santhosh Kumar in the year 2018 and according to the petitioner, he was a chronic alcoholic and had the propensity to assault the petitioner's daughter regularly and was also torturing her both physically and mentally. The further case of the petitioner is that he got a news on 17.04.2020 that his daughter had committed suicide. He immediately lodged a complaint before the third respondent and

an FIR came to be registered under Section 174 of Cr.P.C. on 17.04.2020.

3. The grievance of the petitioner is that there was absolutely no effective investigation conducted in this case and the petitioner found that the case was referred as 'further action dropped' on 17.04.2020. This information was collected by the petitioner from the website of the Tamil Nadu Police. Aggrieved by the same, the present petition has been filed before this Court.

4. The second respondent has filed a status report in this case. The relevant portions in the status report is extracted herein:

"5. I submit that during the course of investigation, the then Deputy Superintendent of Police has examined the following witnesses and recorded their statements:

(1) Tmt.Malliga-Wife of the defacto complainant

(2) Tr.Raja Raman - Defacto complainant / Plaintiff herein

(3) Tr.Sarath Babu - Sister's husband of the deceased

(4) Tr.Rajasekaran & (5) Tmt.Maheswari - Brother and sister of the deceased

(6) Tmt.Amutha - Mother-in-law of the deceased

(7) Tr.Pattusamy - Father-in-law of the deceased

(8) Tr.Santhosh Kumar - Husband of the deceased

Witnesses 1 to 5 corroborated the same version of the complaint.

Witnesses 6 to 8 speaks about that prior 1 day to the occurrence, the deceased called her sister over phone and informed that she got bite by insect and she was tried to convey the same to her husband over phone, but he was not attended the call. Immediately, the sister of the deceased abused the deceased husband by saying that "உன் பருஷன் கம்னாட்டி பையன் எங்க போயிட்டான் ஏன் போன் எடுக்கலை" and the said words heard by the deceased husband. The said message was communicated by the deceased husband to his father Pattusamy, the said Pattusamy was questioned about the same the deceased abused him also in filthy language. Due to

that, the deceased and her husband had quarrel and the deceased was assaulted by her husband. Thereafter, Senthoshkumar had taken the deceased into hospital and brought tablets to her. The deceased did not take food in two days and also not spoke with her husband and the same was communicated by her husband to the mother of the deceased. Due to that, the deceased has committed suicide by hanging herself on the roof of cow hut.

7. I submit that during the course of investigation, the then Deputy Superintendent of Police has obtained Post Mortem Report and Final Opinion from the Post Mortem doctor, which reveals that "the cause of death of the deceased due to Asphyxia "

8. I submit that after completion of elaborate and detailed investigation, based on the witnesses statement and material evidences i.e. R.D.O. Report, on 27.05.2020, the then Deputy Superintendent of Police closed this case in Kumaratchi P.S. Crime No.94 of 2020 as "Further Action Dropped" and the R.C.S. No.4 of 2021 dated 24.2.2021 was affixed in the door of the petitioner/defacto complainant in the presence of the Village Assistant, Thillaividangan Village."

5. The learned counsel for the petitioner submitted that earlier the petitioner was under the impression that the third respondent has already filed a referred charge sheet on 17.04.2020. However, on reading the status report, an impression has been given as if further action was dropped through RCS in Crime No.4 /2021 on 24.02.2021 and the notice was served through affixure to the petitioner/defacto complaint. The learned counsel submitted that the investigation has been conducted in this case in a slipshod manner. The learned counsel brought to the notice of this court that the death has occurred within a period of seven years from the date of marriage and there was lack of seriousness in conducting the investigation and therefore, the case has to be transferred to some other agency with a direction to conduct a fresh investigation in this case. The learned counsel brought to the notice of this court paragraph-10 of the status report and submitted that the final report is going to be filed before the R.D.O. Chidambaram and the same is completely in violation of the directions issued by this Court in S.K.Abimannan vs. The Superintendent of Police reported in 2018 (2) LW (CrI) 522.

6. The learned Additional Public Prosecutor appearing on

behalf of the respondents submitted that a thorough investigation has been conducted in this case. The learned Additional Public Prosecutor submitted that the R.D.O. report reveals that this is not a case of dowry harassment. It was only a case of quarrel that continuously took place between the deceased and the accused person and she ultimately took an extreme step of committing suicide by hanging. On investigation, the respondent police were not able to find any incriminating materials against the accused persons and therefore decided to close the case as 'further action dropped'.

7. In the considered view of this Court, the materials placed before this Court makes it clear that the investigation has not been conducted in a satisfactory manner. There are some serious allegations made by the petitioner against the accused persons to the effect that the accused person was a chronic alcoholic and he had the habit of abusing his wife physically and mentally. Even if the case of dowry harassment is not made out by relying upon the report of R.D.O, there is nothing to show that there was a proper investigation to collect the materials for the offence under Sections 306 and 498 A of IPC. The fact that there are two closure reports available in this case would show that the investigation has not been properly conducted. That apart, the status report shows that the second respondent wants to file the closure report before the R.D.O., Chidambaram and this is completely in violation of the earlier order passed by this Court which has been referred supra.

8. This Court is convinced that the investigation must be transferred and it has to be conducted afresh by a different officer. In view of the same, the third respondent is directed to immediately handover the entire case diary to the ADSP, Cuddalore, within a period of two weeks from the date of receipt of a copy of this order. The ADSP, Cuddalore, on receipt of the case diary, shall commence the investigation afresh. The investigation shall be monitored by the Superintendent of Police, Chidambaram. The final report shall be filed as expeditiously as possible.

9. This Criminal Original Petition is disposed of with the above terms.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Superintendent of Police,
Office of the Superintendent of Police,
Chidambaram-608 001.
2. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Chidambaram.
3. The Inspector of Police,
Kumaratchi Police Station,
Cuddalore District.
4. The Public Prosecutor,
High Court, Madras.

Copy to :5. The Deputy Superintendent of Police,
Cuddalore.

+1 cc to M/s.Govind Chandrasekhar, Advocate Sr.No. 13354

Cr1.O.P.No.2423 of 2021

GPL(CO)
RMP(30/03/2021)