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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2021

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Cr1.O.P.No.5075 of 2018
and
Cr1.M.P.No.2654 of 2018

R.Amudha
W/o. Late D.Gopal

...Petitioner

Versus

1.The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai - 600 004.

2.The Superintendent of Police,
Namakkal District,
Namakkal.

3.The Inspector of Police,
Komarapalayam Police Station,
Namakkal District.

4.The Additional Director General of Police,
Crime Branch CID,
Chennai.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the 1st respondent to withdraw the investigation in Crime No.439 of 2016 from the 3rd respondent and to transfer the same to the office of the 4th respondent for fair and proper investigation.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.C.E.Pratap
Government Advocate (Cr1. Side)



O R D E R

This Criminal Original Petition has been filed seeking to direct the 1st respondent to withdraw the investigation in Crime No.439 of 2016 from the 3rd respondent and to transfer the same to the office of the 4th respondent for fair and proper investigation.

2. It is the case of the petitioner that she is living with her son and daughter in the Kulathukadu, Komarapalayam, Namakkal District and the petitioner's husband was working as Cashier cum Clerk in Indian Bank, Komarapalayam Branch. The petitioner's husband met with a road accident on 27.08.2016 at 7.00 am and succumbed to the injuries. The petitioner came to know that while her husband was proceeding from East to West in his bicycle, an Eicher lorry bearing No.TN-39-BT-7611 came from behind, driven in a rash and negligent manner and hit her husband. The petitioner's husband was taken to the Government Hospital, Komarapalayam, where he was identified by the petitioner later. The petitioner came to know that the 3rd respondent police has registered a case in Crime No. 439 of 2016 for the offence under Section 279 and 304 A IPC, against unknown persons though she noted injuries over the body of her husband. The petitioner and her relatives went to the scene of occurrence and enquired the people and were informed that the offending vehicle bearing TN-39-BT-7611 had hit her husband. Though to verify the involvement of the vehicle, the petitioner's brother R.Seeniraj enquired the persons in-charge of the Toll Gates located at Sankari and Salem, but, they were not given any particulars. Fortunately, the officer in-charge of the Toll Gate at Hosur has furnished the list of vehicles which crossed through the said Toll Gate on 26/27.08.2016, from which the petitioner came to know that the offending vehicle had crossed the Hosur Toll Gate on 27.08.2016 at 12.18 A.M and reached the place of occurrence through a different route to avoid toll gates. On the said information, the petitioner met the 3rd respondent and handed over the details of the Eicher lorry. However, the 3rd respondent did not take any action, which prompted the petitioner to file the present petition.

3. The learned counsel for the petitioner submits that though the initial investigation officer has been transferred



and a new investigation officer has appointed, it would suffice if this Court permits the petitioner to produce the list of witnesses and other documents before the 3rd respondent and 3rd respondent may be directed to complete the investigation after examining the list of witnesses produced by the petitioner and to file a charge sheet within the reasonable time fixed by this Court.

4. The 3rd respondent filed a status report para Nos.3, 4, 5, 7 and 8 are as follows:-

'3. I submit that during the course of investigation, the then Sub Inspector of Police went to the scene of occurrence, drew rough sketch, prepared observation mahazar in the presence of witnesses namely Tr.Samel Raj, and Tr.Yesaiyan, and also examined the following witnesses and recorded their statements.

(i) Tmt. Amudha - Defacto Complainant/petitioner here in

(ii) Tr.Kavinkumar - Son of the defacto complainant

(iii) Tmt. Aarthi Manjula - Sister-in-law of the defacto

complainant.

(iv) Selvi. Maheswari - Daughter of the deceased.

(v) Tr. Seeni Raj - Relative of the defacto complainant.

(vi) Tr.N.Mani - Who came to the tea shop, at the time of

occurrence/Eye witness

(vii)Tr.N.Mani - Neighbour tea shop owner of the S.O.C/ Eye witness

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

Witnesses 6 and 7 speaks about that on the day of occurrence, they saw the deceased when he was hit by the unknown vehicle, immediately, they rushed to the spot and found the deceased with severe head injuries and he was died on the spot.

4. I submit that on the same day i.e 27.08.2016 at about 10.30 a.m to 12.30 hours, the then Sub- Inspector of Police had conducted inquest



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on the deceased body in the presence of following panchayater and also taken photographs of the deceased body.

(i) Tr.K.Muninthan, (ii) Tr.K.S.Rajendra,
(iii) Tr.K.S.Angappan

(iv) Tr. Varadharajan & (v)
Tr.Sivashanmugam.

All the witnesses speaks about that on 27.08.2016 at about 7.45 hours, when the deceased Gopal went to walk by his bi-cycle, near Ethirmedu J.K.K.College Saled to Coimbatore Highways, the unknown driver and unknown vehicle and registration number, came on the same direction of the deceased and hit on the deceased. Due to the accident, the deceased sustained head injuries and died on the spot.

5. I submit that during the course of investigation, on 31.08.2016, Tr.Velu Thevan, the then Inspector of Police, Komarapalayam P.S had taken up further investigation of this case. He examined the above said witnesses but not recorded their statement. He also examined the following witnesses and recorded their statements:

(i) Tr.Saravanan - Neighbour Ambal fancy Store owner of S.O.C

(ii) Tr.Ramesh Kumar - Neighbour Chellimman Provision store owner of S.O.C.

The above witnesses speaks about that on the day of occurrence, one unknown vehicle hit the deceased on the same direction and the said vehicle escaped from the spot immediately.

7. I submit that during the course of investigation, on 10.10.2016, the defacto complainant appeared before the then Inspector of Police, and submitted that she produced three eye witness namely Tr.Mohana Sundaram, Tr.Arumugam and Tr.Karthick and also stated that the above said three eye witnesses saw the accident vehicle i.e Eicher mini Container Lorry bearing Reg. No.TN39-BT-7611, when the above said vehicle hit the deceased on the day of occurrence and caused the death of the deceased.

Based on the above, on 21.11.2016, the then



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Inspector of Police examined the above said three eye witnesses and they submitted written submissions that they are the auto drivers and on the day of occurrence, when they crossed the S.O.C they seen the accident, which was hit to the deceased by one Eicher vehicle. But they did not aware the registration number of the said vehicle. As per the instruction of one Jeeva @ Jeevanadham, who is the relation of the defacto complainant they mentioned the registration number of the accident vehicle, for that, the said Jeeva gave a sum of Rs.3000/- for each person and also provided food.

8. I submit that based on the above, on 31.12.2016, the then Inspector of Police, issued summon to the owner of Eicher vehicle Reg No.TN-39-BT-7611 i.e Tmt.R.Poornoma Devi, W/o. Ranjith Kumar, No.13, Indira Nagar, III Street Tiruppur, but she did not present before the then Investigation Officer, hence, again the summons issued against the said Poornima, but she did not turned up.

5. Though very many contentions have been raised in the affidavit including the improper investigation conducted by the investigating agency initially, considering the limited request made by the learned counsel for the petitioner, this Court, without going into the merits of the issue, directs the third respondent to complete the investigation by examining all the witnesses, the list of which has been produced by the petitioner, in accordance with law, and file the report within a period of three months from the date of receipt of copy of this order.

6. With the above directions this Criminal Original Petition is disposed of. Consequently the connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-IX)

// True Copy //

Sub Assistant Registrar

msrm



1.The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai - 600 004.

2.The Superintendent of Police,
Namakkal District,
Namakkal.

3.The Inspector of Police,
Komarapalayam Police Station,
Namakkal District.

4.The Additional Director General of Police,
Crime Branch CID,
Chennai.

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Manokaran, Advocate SR.No.33181

CRL.O.P.No.5075 of 2018

AK(CO)
RVM(25/08/2021)