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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.3017 of 2021

1.R.Kousalya
2.C.Rajendran

...Petitioners

Versus

1.The Superintendent of Police,
CBCID,
Chennai.

2.Commissioner of Police,
Office of the Commissioner of Police,
Vepery, Chennai - 7.

3.The Inspector of Police (L & O),
S-10, Pallikaranai Police Station,
Pallikarani, Chennai.

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to transfer the investigation in Crime No.946/2019 pending on the file of Pallikaranai Police station/3rd respondent to the Superintendent of Police, CBCID, at Chennai/1st respondent.

For petitioners : Mr.R.Rangarajan

For Respondents : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to transfer the FIR in Crime No.946 of 2019 from the file of the 3rd respondent Police to the file of the 1st respondent.

2.The case of the prosecution is that the petitioners' son Prasad (deceased) was employed as Driver in the Rural Development Department (Panagal Maligai Building), Saidapet, Chennai. During the month of April 2019, the petitioners' son/deceased got married to one Rekha. Three months prior to the occurrence, the petitioners' son/deceased and his wife Rekha



started living separately in a rented house at Pallikaranai. During the matrimonial life, there was some dispute between the couples and the petitioners' son/deceased informed the discord to his parents and sister over phone. The petitioners' son/deceased doubted the morality and chastity of his wife, since she was speaking over the phone at odd hours and moving freely as per her wish. When the same was enquired by the petitioners' son/deceased, she gave no proper reason, on the other hand abused him. On 05.10.2019, the parents of the deceased informed that there was some wordy quarrel between the petitioners' son and his wife Rekha, due to which, she went to her parents house and the petitioners' son/deceased was alone. Next day morning, at about 10.30 a.m., the neighbour of the petitioners' son/deceased found the main door of the house opened, nobody was there and found the bedroom was locked inside. Despite banging, no response from inside. Immediately, the same was informed to Rekha and also to the petitioners. When the petitioners reached the scene, they were informed that Rekha's father and one Prasad neighbour had opened the door, found the petitioners' son/deceased hanging, brought him down. Having suspicious over the death, the father of the deceased/petitioners' husband lodged a complaint to the 3rd respondent and the same was registered in Crime No.946 of 2019 under Section 174 Cr.P.C. After registration of the case, no proper investigation conducted and hence, the petitioners sent representation to higher officials on suspicion over the death of her son and named certain persons involved in the crime, then to no action taken. Hence, the mother of the deceased/1st petitioner filed the present petition seeking transfer of investigation to the file of the 1st respondent.

3.The learned counsel for the petitioners submitted that the petitioners' son/deceased earlier got married in the year 2012 and due to some difference of opinion, he got divorced on 20.08.2016. For second marriage, the parents of the deceased registered his son's name in marriage alliance centre, through that one Rekha daughter of Murali Raj contacted the petitioners' son and they started regularly speaking over phone. This was not known to the parents of the deceased Prasad. On coming to know about the same, the petitioners advised his son/deceased not to keep contact with Rekha without knowing her background. Finally, engagement took place on 08.02.2019 between the petitioners' son/deceased and Rekha and later, marriage solemnized on 22.04.2019 at Sri Kanchi Kama Kodi Peedam Sankara Mutt Mandapam at Thirumala Thirupati Andhra Pradesh. After the marriage, the petitioners' son/deceased and Rekha started their matrimonial life at petitioners' residence at Thiruvallur Nagar, Thiruvannamiyur. After a week, the petitioners' son informed his parents that his wife Rekha always active in social media, chatting endlessly and she was having lot of friends and going



out at odd hours on her own without informing. When the same was questioned by the petitioners, Rekha pressurized his husband/deceased to vacate the home and they moved out to rented house at Pallikaranai. Under these circumstances, Rekha's brother Didymus Demonde informed the petitioners that their son/deceased Prasad committed suicide by hanging at Pallikaranai house. When the petitioners reached Pallikaranai, they found attempts were made to destroy the evidence in the scene of occurrence. At that time, the petitioners' son found fully dressed and he was ready for going out for work.

4.The learned counsel for the petitioners further submitted that after registration of the case, the 3rd respondent Police failed to conduct investigation properly, despite petitioners' son died in a suspicious manner. During investigation, it was found that Rekha's estranged husband was residing in the same locality at Pallikaranai and she was having constant contact with him. The 3rd respondent Police relying on the postmortem report, had conducted the investigation and failed to look into the fact whether the deceased was strangled or it was a suicide and what is the reason for the same. It is admitted that the bedroom door was broken open, but the position of the door lock, height of ceiling from the floor and other physical features of the room and where the deceased died, are not recorded in the Observation Mahazar. The Rough sketch was also not properly drawn. The call detail recordings of the deceased, his wife Rekha, her brother and her father were not collected and verified and failed to find out the contact details and also not verified the reason given by Rekha and her family members for the petitioners' son committing suicide.

5.Earlier, the petitioners filed a petition before this Court in CrI.O.P.No.33937 of 2019 seeking transfer of investigation in Crime No.946 of 2019 from the file of the 3rd respondent to the file of the 1st respondent. During pendency of the petition, the 3rd respondent filed a closure report in R.C.S.No.2 of 2020 before the Executive Magistrate, instead of filing the same before the learned Judicial Magistrate No.II, Alandur. This Court, by order dated 25.08.2020 closed the petition, directing the petitioners to workout her remedy before the concerned Court. With great difficulty, the closure report reached the Court of Judicial Magistrate No.II, Alandur, summons issued to the petitioners. On receipt of the same, the petitioners filed a protest petition in C.M.P.No.817 of 2021 against the closure report in R.C.S.No.2 of 2020. The Court below, by order, dated 08.02.2021 in C.M.P.No.817 of 2021 rejected the negative report filed by the 3rd respondent, directed the 3rd respondent to conduct further investigation and to file final report. Despite the 3rd respondent informed about the petitioners' son suspicion death and the involvement of his



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wife Rekha and her family members, no investigation done. Hence, no purpose would be served once again entrusting the investigation to the 3rd respondent Police. Further, the learned Judicial Magistrate can only direct the 3rd respondent to conduct further investigation, nothing more. Hence, they prayed for transfer of investigation.

6. In support of his contention, the learned counsel for the petitioners filed typed set containing the complaint, photographs, death report, postmortem certificate, death certificate, closure report in R.C.S.No.2 of 2020, protest petition and the order passed in protest petition in R.C.S.No.2 of 2020 in Crl.M.P.No.817 of 2021.

7. The learned Additional Public Prosecutor appearing for the respondents filed status report and submitted that on the complaint of the petitioners, FIR was registered in Crime No.946 of 2019, witnesses present in the scene of occurrence were examined, observation mahazar, rough sketch were prepared, body sent for postmortem, inquest on the body of the deceased conducted. He further submitted that the apprehension of the petitioners seems to be unfounded. The 3rd respondent Police examined the defacto complainant Rajendran and others viz., Gunavathy, Murali, Prakash Ravi, Rekha, the neighbours viz., Tamilvanan, Kasthuri, who are residing in the same floor and postmortem Doctor.

8. He further submitted that the postmortem certificate clearly established the fact that the deceased had no internal or external injuries, except lectures marked encircling the neck. The postmortem Doctor gave his opinion that the deceased died by Asphyxia and due to hanging. In this case, there is no doubt about any foul play taken place in the death of the deceased. Earlier, the deceased was working in a private company and prior to occurrence, he employed as Driver in the Rural Development Department, (Panagal Maligai Building), Saidapet, Chennai and he had some issues and the department had issued memo, due to which, he was upset. The concerned officer and the staffs of the Rural Development Department are to be examined. During investigation, questionnaire with regard to the death of the deceased was also sent to the Doctor who conducted Autopsy. In any event, further investigation is ordered, the grievance of the petitioners would be addressed.

9. This Court considered the rival submissions and perused the materials available on record.

10. In this case, during investigation, the 3rd respondent examined 12 witnesses, recorded their statements and produced the same before this Court along with collected documents. On



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perusal of the same, it is seen that though right from the beginning, the petitioners had suspicion over the death of their son, the 3rd respondent Police did not conduct the investigation properly. Though the closure report was sent to the Executive Magistrate, what is the enquiry conducted by the Executive Magistrate is not known. During investigation, no Call Detail Records of the suspected persons verified and no enquiry conducted with the co-employers of the deceased. The Observation Mahazar and the Rough Sketch prepared by the 3rd respondent Police only shows the physical features of the outside building and with regard to the scene of occurrence, nothing has been drawn.

11. Thus, the apprehension and the suspected persons notified by the petitioners have not been considered by the 3rd respondent while conducting the investigation in Crime No.946 of 2019.

12. In view of the above, this Court feels that once again directing the 3rd respondent to conduct further investigation would serve no purpose. Hence, the investigation in Crime No.946 of 2021 is ordered to be transferred from the file of the 3rd respondent to the file of the Assistant Commissioner of Police, Madipakkam, Chennai.

13. The 3rd respondent Police is directed to submit the entire case diary in Crime No.946 of 2019 to the Assistant Commissioner of Police, Madipakkam within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the Assistant Commissioner of Police, Madipakkam to conduct further investigation and file a final report as expeditiously as possible under due intimation to the petitioner. The Deputy Commissioner of Police, St. Thomas Mount, Chennai to monitor the investigation in Crime No.946 of 2019.

14. With the above directions, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

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To

1. The Commissioner of Police,
Office of the Commissioner of Police,
Vepery, Chennai - 7.



2.The Superintendent of Police,
CBCID,
Chennai.

3.The Inspector of Police (L & O),
S-10, Pallikaranai Police Station,
Pallikarani, Chennai.

4.The Public Prosecutor,
High Court, Madras.

Copy To

1.The Deputy Commissioner of Police,
St. Thomas Mount,
Chennai.

2.The Assistant Commissioner of Police,
Madipakkam,
Chennai.

+1cc to Mr.R.Rangarajan, Advocate SR.No.57406

CRL.O.P.No.3017 of 2021

CA(CO)
RVM(09/12/2021)