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W.P.No.10859 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.09.2021
PRONOUNCED ON : 21.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.10859 of 2021

K.Venkatesan

... Petitioner

Versus

1.State Rep By:-

Inspector of Police,
Vellore Taluk Circle Police Station,
Kaniyampadi, Vellore – 632 102.
Crime No.421/2015.

2.State Rep. By:-

The Deputy Superintendent of Police – CBCID,
No.153/4, Civil Supply Godown Street,
Kamalachipuram, Otteri,
Vellore – 632 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus or any other appropriate writ direction or order in the Nature of writ calling for records and to quash the Final Report (Referred Charge Sheet) dated 29.03.2021 in RCS No.221 of 2021 and to direct the Second Respondent Deputy Superintendent of Police – CBCID – Vellore to conduct the Fresh Investigation in Crime No.421 of 2015 registered by the First Respondent Police.

For Petitioner : Mr.D.Vijayababu
For Respondents : Mr.A.Damodaran,
Additional Public Prosecutor



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ORDER

This Writ Petition has been filed to quash the Final Report, dated 29.03.2021 in R.C.S.No.221 of 2021 and direct the 2nd respondent to conduct a fresh Investigation in Crime No.421 of 2015 registered by the 1st respondent Police.

2.The petitioner/defacto complainant, who is the father of Monisha (hereinafter referred as 'Deceased') lodged a complaint to the 1st respondent Police on 02.09.2015 and the same was registered in Crime No.421 of 2015 under Section 174(3) Cr.P.C. After completion of investigation, the 1st respondent Police filed the Referred Charge Sheet in R.C.S.No.221 of 2021 on 29.03.2021, as against which the present Writ Petition and to order fresh investigation or de novo investigation.

3.The complaint of the petitioner is that the petitioner's elder daughter Mohisha, aged about 17 years at the time of occurrence, was studying B.A., English second year in Auxilium College, Katpadi. One Babu @ Margabhandu from New Street, Moonjurpet insisted the petitioner for marrying his elder daughter Monisha, which was refused by him. Despite the same, Babu @ Margabhandu through one Manoharan again



pressurized the petitioner, which was also refused. Prior to the occurrence, the deceased was constantly followed and disturbed by Babu @ Margabhandu while she was going to college. The petitioner warned Babu @ Margabhandu not to do the same and assaulted him, for which Babu @ Margabhandu threatened the petitioner and his family members that they would be done away. On 31.08.2015, at about 02.30 p.m., when the petitioner was waiting in the Old Bus Stand, Vellore for picking up his elder daughter, she did not return back from the college. When the petitioner went to the college and enquired the Principal and others, he was informed that his elder daughter left the college along with her friends. Later, the petitioner came to know that his elder daughter was kidnapped by Babu @ Margabhandu. Later on 01.09.2015, Babu @ Margabhandu left the deceased in front of her home and the petitioner's daughter informed her parents that during the period of kidnap, Babu @ Margabhandu tied Thali forcibly. On 02.09.2015, at about 08.00 a.m., the deceased locked the room to take bath and she committed suicide by hanging.

4.The learned counsel for the petitioner submitted that the



petitioner's elder daughter Monisha (deceased), aged about 17 years at the time of occurrence, was studying B.A., English Second Year in Auxilium College of Arts and Science, Katpadi. On 14.07.2015, Babu @ Margabhandu harassed the petitioner's elder daughter/deceased and forced her to love him near Tiruvallur Statue, Vellore. At that time, the petitioner had gone to pick up his daughter and found his daughter being harassed by Babu @ Margabhandu. The petitioner warned Babu @ Margabhandu and returned back home along with his daughter. On the same day, at about 03.04 p.m., Babu @ Margabhandu called the petitioner through mobile phone and gave life threat to him and his family. On the same day, at about 10.10 p.m., Babu @ Margabhandu along with one Rathinakumar and other rowdy elements from Viruthampattu Village threatened the petitioner, his daughter and his wife. Hence, on 15.07.2015, the petitioner lodged a complaint with Kaniyampadi Police Station. The Sub Inspector of Police, Vellore Taluk Circle Police Station, Kaniyambadi refused to register any FIR, since Babu @ Margabhandu was a Police Constable. On 31.08.2015, as usual the deceased Monisha went to college. Around 02.30 p.m., the petitioner had gone to Vellore Old Bus Stand to pick up his daughter. Upto 05.30 p.m., his daughter not turned up. When the petitioner enquired with



the college authorities and verified the CCTV footage in the college, found that his daughter has left the college along with her friends. Later, the petitioner came to know that on 31.08.2015, Babu @ Margabhandu along with his friends Murugan and Suresh kidnapped the deceased Monisha in Innova car, threatened, harassed her and forcibly tied Thali around her neck. Thereafter, they went to Sholingur and Veeramangalam, where she was continuously tortured by Babu @ Margabhandu. After that the brother-in-law of Babu @ Margabhandu joined and four more persons followed in another car. During the kidnap, the petitioner's daughter Monisha resisted and cried for help. On 01.09.2015, at early hours, the petitioner's daughter was dropped in front of his house by Babu @ Margabhandu and others. The petitioner's daughter informed her parents that Babu @ Margabhandu tied Thali forcibly on her neck. On 02.09.2015, at about 08.00 a.m., the deceased Monisha had gone to take bath, locked the door and committed suicide by hanging using her duppatta. Thereafter, the petitioner lodged a complaint on 02.09.2015 to the 1st respondent Police. On the complaint of the petitioner, a case in Crime No.421 of 2015 was registered under Section 174(3) Cr.P.C., and thereafter, no proper enquiry was conducted.

5.It is submitted by the learned counsel for the petitioner that



during investigation, the petitioner's family members, his relatives, college authorities where the deceased studied, her friends were not examined by the 1st respondent Police and no statements recorded. Hence, the petitioner moved a direction petition before this Court in CrI.O.P.No.420 of 2017 seeking transfer of investigation. When the matter was taken up for hearing, it was submitted that after completion of investigation in Crime No.421 of 2015, an R.C.S.No.41 of 2019 was filed by the 1st respondent Police on 29.11.2019 and sent the RCS notice to the petitioner on 11.01.2020, which was received by him on 13.01.2020. Since 14.01.2020 to 19.01.2020 were Pongal Holidays, the petitioner was not able to file a protest petition before the concerned Court. On 20.01.2020, the petitioner met his counsel in Chennai and on his direction, on 22.01.2020, the petitioner filed a Copy Application before the learned Judicial Magistrate No.I, Vellore in C.A.No.13 of 2020 seeking copy of FIR in Crime No.421 of 2015 and closure report of R.C.S.No.41 of 2019 and other documents. On 23.01.2020, the learned Judicial Magistrate No.I, Vellore returned the copy application for the reason that '*FIR not received in this Court, hence return*'. On 22.01.2020, the petitioner sent a representation to the Revenue Divisional Officer, Vellore and to the 1st respondent Police seeking certified



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copies of the documents relating to R.C.S.No.41 of 2019, but they failed to consider his representation. Hence, the petitioner filed a direction petition before this Court in Crl.O.P.No.2906 of 2020 and prayed to furnish certified copies of entire documents relating to R.C.S.No.41 of 2019, wherein this Court, by order, dated 03.03.2020 directed the 2nd respondent therein to file the closure report before the concerned jurisdictional Court and furnish copy of R.C.S.No.41 of 2019 to the petitioner within a period of four weeks. On 16.06.2020, the petitioner sent a representation enclosing the order passed in Crl.O.P.No.2906 of 2020 to the 1st respondent Police, but they failed to comply with the order. Hence, the petitioner filed a petition in Crl.O.P.No.420 of 2017 seeking transfer of investigation in Crime No.421 of 2015, in which on 13.07.2020, this Court directed the 3rd respondent therein to serve the referred charge sheet notice forthwith in Crime No.421 of 2015 to the petitioner and observed that the petitioner is at liberty to approach the Court by way of protest petition if so advised. Thereafter, the petitioner filed copy applications on three occasions for FIR copy, referred charge sheet in R.C.S.No.41 of 2019 before the learned Judicial Magistrate No.I, Vellore, but all the three Copy Applications were returned on 23.01.2020, 03.03.2020 and 11.01.2021 respectively. On 01.12.2020, the



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petitioner again sent a representation to the Additional Superintendent of Police, Vellore District and the 1st respondent to comply the order of this Court in Crl.O.P.No.2906 of 2020, dated 03.03.2020. Since there was no response, on 02.02.2021 the petitioner caused a contempt notice to the 1st respondent to comply the order passed of this Court in Crl.O.P.No.2906 of 2020 and filed Contempt Petition before this Court in C.P.No.219 of 2021. On 17.02.2021, the 1st respondent Police was directed by this Court to comply with the earlier order of this Court. The 1st respondent Police was directed to file the closure report in Crime No.421 of 2015 before the concerned Jurisdictional Magistrate on or before 26.02.2021 and to furnish one set of copy to the petitioner forthwith.

6.On 01.03.2021, when the Contempt Petition came up for reporting compliance, again the 1st respondent Police took time and thereafter only, filed the closure report in R.C.S.No.41 of 2019 before the learned Judicial Magistrate No.I, Vellore. On 05.03.2021, the petitioner obtained the certified copies of the closure report along with the documents in R.C.S.No.41 of 2021. On perusal of the same, it revealed that Section 174(3) Cr.P.C., not altered and no worthwhile investigation was done.



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Aggrieved over the same, the petitioner filed the protest petition before the Judicial Magistrate Court No.I, Vellore and also filed a petition before this Court seeking fresh investigation on the ground that since the petitioner's complaint disclosed the offence under Sections 306, 366, 506(ii) and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998.

7.The learned counsel for the petitioner further submitted that the statement of the witnesses recorded under Section 161 Cr.P.C., are contradictory to each other and some of the statements are parrot like version. The statement of Babu @ Margabhandu was recorded under Section 161 Cr.P.C., wherein he admitted about kidnapping the deceased Monisha in Innova Car on 31.08.2015 at about 01.45 p.m., and proceeding to Rathnagiri Temple and tied Thali on her neck and later, taking the deceased Monisha to his sister's house at Veeramangalam and dropped her at her residence on 01.09.2015 at early hours. Despite the same, the 1st respondent Police failed to alter Sections in the FIR. Thus, the immediate cause for the death of the deceased Monisha is Babu @ Margabhandu.

8.The learned counsel for the petitioner further made his



submissions that in this case, none of family members of the deceased Monisha examined as witness. On the contrary, it is shown that the statement of the family members of the deceased were recorded under Section 161 Cr.P.C. In this case, the Investigating Officer has not followed the Chapter XII of the Code of Criminal Procedure and never visited the scene of occurrence, examined any person present in the scene of occurrence and recovered any articles. Further, no independent witness from Moonjurpet Village, college friends of the deceased, college Principal and professors were examined. The FIR in Crime No.421 of 2015 and the statements recorded under Section 161 Cr.P.C., had not reached the Judicial Magistrate Court No.I, Vellore then and there and it reached only after filing several petitions before this Court.

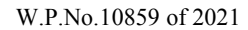
9.It is submitted that despite several external injuries on the body of the deceased, no investigation in respect of the same was conducted by the 1st respondent Police. The Postmortem certificate clearly reveals that the finger and toenails turned blue, lacerations found in the left forearm and wrist, contused laceration on left temporo-parietal region, contusion abrasion on the left cheek, contused abrasion on both sides of neck. The



final opinion of the Postmortem Doctor is that “*the deceased would appear to have died of Asphyxia Due to Hanging in view off external and internal injuries homicidal hanging may be considered*”. He further submitted that the report of the Revenue Divisional Magistrate, Vellore, dated 03.09.2015 categorically reveals that on 31.08.2015, the deceased was kidnapped and married by Babu @ Margabhandu, but no registration of marriage was done. The categorical finding is that the deceased was forcibly taken by Babu @ Margabhandu on 31.08.2015 is proved. Hence, further investigation by the same Police would serve no purpose.

10. In support of his submissions, the learned counsel for the petitioner placed reliance on the following decisions:-

- “***Neetu Kumar Nagaich Versus State of Rajasthan reported in 2020 (16) SCC 777***”, wherein it had held that the High Court or the Hon'ble Apex Court alone can direct fresh or de novo investigation even after closure report, if satisfied that the investigation has not been conducted in a proper and objective manner.
- “***Vinay Tyagi Versus Irshad Ali Alias Deepak and others reported in (2013) 5 SCC 762***”, wherein it had held that the Investigation can be ordered in varied forums and at different stages. Right at the initial stage of receiving the FIR or a complaint, the Court can direct investigation in accordance with the provisions of Section 156(1) of Cr.P.C., in exercise of its



- ***“Babubhai Versus State of Gujarat and others reported in (2010) 12 SCC 254”*** wherein it had held that it is evident that in exceptional circumstances, the Court in order to prevent the miscarriage of criminal justice, if considers necessary, may direct for investigation de novo wherein the case prevents exceptional circumstances.
- ***“Sasi Thomas Versus State and others reported in (2006) 12 SCC 421”***, for the point that the job of the investigating officer is to make investigation in right direction. The investigation must be in consonance with the ingredients of the offence. It cannot be haphazard or unmethodical. A proper and effective investigation into a serious offence and particularly in a case where there is no direct evidence assumes great significance as collection of adequate materials to prove the circumstantial evidence becomes essential.
- ***“Pooja pal Versus Union of India and others reported in 2016 (1) SCC (Crl) 743”***, wherein it had held that *“The joining of science with traditional criminal investigation techniques offers new horizons of efficiency in criminal investigation. New perspectives in investigation bypass reliance upon informers and custodial interrogation and concentrate upon a skilled scanning of the crime scene for physical evidence and a search for as many witnesses as possible. Mute evidence tells its own story in court, either by its own demonstrativeness or through the testimony of an expert witness involved in its scientific testing. Such evidence may serve in lieu of, or as corroboration of, testimonial evidence of witnesses found and interviewed by police in an extension of their responsibility to seek out the truth of all the circumstances of crime happening. An increasing certainty in solving crimes is possible and will contribute to the major deterrent of crime – the certainty that a criminal will be discovered, arrested and convicted.”*
- ***“Dharam Pal Versus State of Haryana reported in 2016 (4) SCC***



160”, wherein it had held that the power to order fresh, de novo or reinvestigation being vested with the constitutional courts, the commencement of a trial and examination of some witnesses cannot be an absolute impediment for exercising the said constitutional power which is meant to ensure a fair and just investigation. It is the bounden duty of a court of law to uphold the truth and truth means absence of deceit, absence of fraud and in a criminal investigation a real and fair investigation, not an investigation that reveals itself as a shame one. It is not acceptable. It has to be kept uppermost in mind that impartial and truthful investigation is imperative.

- **“*Kashmeri Devi Versus Delhi Administration reported in 1988 Suppl. Supreme Court Cases 482*”**, for the point that fresh investigation with the help of an independent agency can be considered to secure the ends of justice so that the truth is revealed.
- **“*Zahira Habibullah Sheikh Versus State of Gujarat reported in 2004 (4) SCC 158*”** for the point that the Courts have to ensure that accused persons are punished and that the might or authority of the State are not used to shield themselves or their men. It should be ensured that they do not wield such power which under the Constitution has to be held only in trust for the public and society at large. If deficiency in investigation or prosecution is visible or can be perceived by lifting the veil trying to hide the realities or covering the obvious deficiencies, courts have to deal with the same with an iron hand appropriately within the framework of law. It is as much the duty of the prosecutor as of the Court to ensure that full and material facts are brought on record so that there might not be miscarriage of justice.
- **“*Chandrababu @ Moses Versus State through Inspector of Police and others reported in 2015 (3) SCC (Cri) 851*”**, for the point that fresh investigation can be directed by only superior Courts and not by Magistrate. Magistrate can only direct further investigation and that too by same agency.
- **“*Kannan @ Muthukumar Versus The State, rep., by the*”**



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Inspector of Police, Cantonment Police Station, Trichy reported in 2014 (1) MWN (Cr.) 202” wherein clearly stated about Robbery – Involvement of Police officials – Stolen property no recovered - Attempt to shield real culprits – Improper investigation even after reinvestigation ordered by the trial Court – Investigation transferred to CBCID.

11.Hence, he prayed to quash the Referred Charge Sheet in R.C.S.No.221 of 2021 and to order fresh investigation and de novo investigation.

12.The learned Additional Public Prosecutor appearing for the respondents filed his counter and submitted that in this case, on the complaint of the petitioner, immediately a case in Crime No.421 of 2015 was registered under Section 174(3) Cr.P.C. Thereafter, the 1st respondent Police visited the scene of occurrence, prepared Observation Mahazar, Rough Sketch, examined the witnesses present in the scene of occurrence and also examined the petitioner, his wife and his family members and relatives, the said Babu @ Margabhandu, his parents and his relatives. During investigation, the allegations against Babu @ Margabhandu that he threatened the petitioner is found to be false. It was found during investigation that there was deep love affair between the petitioner's



daughter/deceased and Babu @ Margabhandu, who are relatives. On 31.08.2015, Babu @ Margabhandu voluntarily picked the deceased Monisha from college and proceeded to Rathnagiri Temple where Babu @ Margabhandu tied Thali on the neck of Monisha and both of them had gone to Sholinghur and Veeramangalam. They stayed at Veeramangalam at night hours. On 01.09.2015, at early hours both decided to proceed to Vellore Taluk Police Station and inform the marriage, but the deceased Monisha changed the idea and requested Babu @ Margabhandu to drop her in her house and promised Babu @ Margabhandu that she would convince her father and others about the love affair and soon to celebrate the marriage. On such understanding, the deceased Monisha was dropped near her house. From 01.09.2015 till 08.00 a.m., on 02.09.2015, she was with her parents' custody and what had happened nobody knows. During Postmortem, external injuries were found on the body of the deceased Monisha and no explanation was given by the petitioner. Hence, what had happened there, before the death of the deceased Monisha is within the exclusive knowledge of the petitioner and his wife.

13.He further submitted that with regard to the external injuries



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found on the deceased, the petitioner and his family members has to give explanation. On the contrary, the petitioner is making allegation as though the 1st respondent Police conducted the investigation in a partisan manner, since the accused happens to be a Police Constable in Police Department. Babu @ Margabhandu is only in the rank of Police Constable and he cannot have any influence in the Department. Further, the love affair between the petitioner's daughter/deceased and Babu @ Margabhandu is confirmed by examination of witnesses and the love letters given by the deceased Monisha to Babu @ Margabhandu. Babu @ Margabhandu and the deceased Monisha were in love affair with each other for five years is confirmed and also confirmed that there was no torture or harassment to the deceased Monisha by Babu @ Margabhandu. During investigation, it was found that the petitioner and his wife after coming to know that Babu @ Margabhandu tied Thali thread on the neck of the deceased Monisha, they abused and threatened her and forcibly removed Thali thread from her neck. This might be one of the reason to commit suicide. Prior to the occurrence, the deceased Monisha was brutally beaten, due to which she sustained external injuries is confirmed through medical report. After examination of the witnesses and collection of materials, the 1st respondent Police rightly



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closed the case in Crime No.421 of 2015 and assigned R.C.S.No.41 of 2019 and served notice to the petitioner. The Revenue Divisional Officer, Vellore, to whom initially FIR in Crime No.421 of 2015 was sent, failed to forward the same to the Judicial Magistrate Court No.I, Vellore till 23.01.2020. Hence, this is the reason for delay for FIR reaching the Court.

14.It is further submitted that the Referred Charge Sheet was taken on file as R.C.S.No.221 of 2021 on 29.03.2021. The petitioner is none other than the uncle of Babu @ Margabhandu, against whom accusation was made. During love period, letters were exchanged between them and they both visited various places together and taken several photos. Except the petitioner, others accepted the love affair between the deceased Monisha and Babu @ Margabhandu. During investigation, it is also found that the deceased had voluntarily gone with Babu @ Margabhandu and the witnesses confirmed this fact. The chain of links and evidence leads to inference of voluntary love affair between the deceased Monisha and Babu @ Margabhandu and though there is nothing scanty to doubt Babu @ Margabhandu being the reason for the deceased Monisha taking extreme step.



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15.He further submitted that the Assistant Professor, Department of Forensic Medicine, Government Vellore Medical College had given expert opinion, dated 19.03.2018 that '*the external injuries on the body of the deceased were not severe enough and highly insufficient to cause death directly*' and further opined that '*the person has been subjected to violence before death*'. With regard to external injuries, an explanation has to be given by the inmates of the house namely the petitioner, his wife and his relatives. But they are tight lipped. Further, the learned Additional Public Prosecutor produced various communications between the Revenue Divisional Officer, Vellore and Tahsildar, Vellore with the respondents seeking copy of FIR and other records in Crime No.421 of 2015. On 13.01.2021, Tahsildar, Vellore sent a communication to the learned Judicial Magistrate No.I, Vellore informing that despite sincere efforts and search, the originals are misplaced and no document could be retrieved and hence, reconstruction of case with available documents is made and requested the same to be accepted as original. Hence, no fault on the side of the 1st respondent Police in submitting the documents before the Court with delay. This Court in CrI.O.P.No.420 of 2017, dated 13.07.2020 directed the



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petitioner to approach the Court concerned by way of filing a protest petition on receipt of the closure report and also directed the concerned Magistrate to conduct a detailed enquiry since the petitioner is making allegations against police official. On the contrary, the petitioner again and again approaching this Court directly without approaching the concerned Magistrate.

16.He further submitted that the flaws for not examining the witnesses from the college where the deceased studied and for not sending the FIR to the Court and non filing of RCS before the concerned learned Magistrate and the Investigating Officer has not conducted proper investigation since Babu @ Margabhandu happens to be a Police Constable is not proper. During investigation, the petitioner were keeping tight lip, failed to give any reason for the external injuries found on the body of the deceased, on the other hand they are making false allegations against the Investigating Officer. Hence, he prayed for dismissal of this Writ Petition.

17.This Court considered the rival submissions and perused the



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materials available on record.

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18.The primary doubt cast on the 1st respondent Police is that since Babu @ Margabhandu against whom accusation made is a Police Constable and the 1st respondent Police acted in partisan manner and not taken any action is not proper. It is seen that Babu @ Margabhandu is only a Police Constable which is lowest in the hierarchy of the Police Department. In this position, he could not have any influence in the investigation done in the rank of the Deputy Superintendent of Police and the Inspector of Police.

19.On the materials collected during investigation, it is found that for past five years prior to the occurrence, the deceased Monisha and Babu @ Margabhandu had love affair with each other and they were exchanging love letters, visited various places together and taken photographs. The handwritings of the deceased Monisha in the love letters were compared with her admitted writings collected from her college where she studied. The witnesses examined have confirmed that the deceased Monisha had voluntarily gone with Babu @ Margabhandu in Innova car on 31.08.2015 and they proceeded to Rathnagiri Temple and thereafter to the house of



Babu @ Margabhandu's sister. During that time, Babu @ Margabhandu tied Thali thread. Initially, they planned to go to Vellore Taluk Police Station and inform the happenings and thereafter, the deceased Monisha informed Babu @ Margabhandu that she would convince her father, since they got married. Hence, Babu @ Margabhandu dropped the deceased Monisha in front of her house at about 03.00 a.m., on 01.09.2015. From 03.00 a.m., on 01.09.2015, till 08.00 a.m., on 02.09.2015, the deceased Monisha was in the custody of her parents and she has not come out and spoken to anyone and made any complaint. Suddenly, on 02.09.2015 at about 08.00 a.m., it was informed that she went to bathroom to have a bath and committed suicide by hanging using Dupatta.

20.In the Postmortem report of the deceased Monisha with regard to external injuries, it is observed as follows:-

“INJURIES NOTED:

Lacerations left forearm and wrist.

Contused Laceration left temporo- parietal region.

Contused abrasion left cheek.

Contused abrasion both sides of neck.

An incomplete oblique ligature mark seen over the front and sides of neck 17cm x 1 cm with a gap of 7 cm



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on the back of neck. It is 6 cm below the chin, 7 cm above the suprasternal notch, 5 cm below the right mastoid and 6 cm below the left mastoid. On blood less dissection of the neck: The soft tissues beneath the ligature mark is pale, translucent parchment like with no extravasations of blood in the superficial or deeper planes of the neck. Hyoid bone: Intact midline structures in the neck: Intact.

On dissection of scalp, skull and dura:

Diffuse sub-scalpal contusion entire scalp.

Marked subdural and subarachnoid hemorrhage both cerebral hemispheres. Peritoneal and pleural cavities: Empty. Heart: Normal. All chambers contained a few cc of fluid blood. Coronaries: Patent. Lungs: Congested. Hyoid bone: Intact. Stomach: Contains 150 ml of bilestained fluid with nil specific smell. Mucosa: Normal. Liver, spleen and kidneys: Congested. Small intestine: Nil specific. Bladder: Empty. Uterus: Normal. Cut section: Empty.”

21.The final opinion of the Postmortem Doctor/Police Surgeon and the Professor of Forensic Medicine, Government Vellore Medical College, Vellore is as follows:-

“Asphyxia due to hanging.

In view of external and internal injuries homicidal hanging may be considered.

Time of Death: 24 hours prior to autopsy.”

22.Further, for a questionnaire and references, the Assistant



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Professor, Department of Forensic Medicine, Government Vellore Medical College, Vellore has clearly given a report that '*the person (Monisha) has been subjected to violence before death*'. But, the petitioner and none of his family members were able to give reason for the external injuries found on the deceased Monisha and all are tight lipped. It is for them to give reason and explanation for the external injuries found on the body of the deceased/Monisha. On the contrary, the petitioner making wild allegations against the Investigating Officer on technical grounds is not proper and not sustainable.

23.Further, non availability of FIR and other related documents before the learned Judicial Magistrate No.I, Vellore was due to the reason that the FIR was registered under Section 174 Cr.P.C., the case was referred for enquiry of the Revenue Divisional Officer, Vellore and to conduct inquest on the body of the deceased. Later, it was found that since the marriage was not registered, no inquest is necessary by the Revenue Divisional Officer, Vellore. Thereafter, the Deputy Superintendent of Police, Vellore conducted investigation, examined the witnesses present in the scene and collected documents. Hence, there seems to be some



confusion where the documents in Crime No.421 of 2015 to be submitted.

This is the reason for the documents not available in the Judicial Magistrate Court No.I, Vellore and this alone would not make the investigation conducted by the 1st respondent Police is tainted, improper or one sided. The petitioner filed several petitions before this Court seeking for change of investigation, seeking copy of the FIR and the Referred Charge Sheet. In none of the petitions, the petitioner was able to give explanation and reasons for the external injuries found on the body of his daughter. It is nobody's case that on 01.09.2015 at early hours, when the deceased was dropped by Babu @ Margabhandu, she was with injuries. Hence, the injuries sustained by the deceased is well within exclusive knowledge of the petitioner and his family members and it is for them to give explanation for the same. On the contrary, making allegations against the 1st respondent Police that he conducted the investigation in improper manner cannot be accepted.

24.In view of the above, the petitioner's prayer for fresh investigation or de novo investigation cannot be entertained and this Writ Petition deserves to be dismissed and, is dismissed.

25.The petitioner is at liberty to file a protest petition and make his



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submissions before the concerned learned Magistrate within two weeks from the date of receipt of a copy of this order. The concerned learned Magistrate to consider the same and dispose the protest petition within a period of three weeks from the date of filing of the protest petition. No Costs.

21.10.2021

Index : Yes/No
Internet: Yes/No

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To

- 1.The Deputy Superintendent of Police – CBCID,
No.153/4, Civil Supply Godown Street,
Kamalachipuram, Otteri,
Vellore – 632 002.
- 2.The Inspector of Police,
Vellore Taluk Circle Police Station,
Kaniyampadi, Vellore – 632 102.
- 3.The Public Prosecutor,
High Court, Madras.



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PRE-DELIVERY ORDER IN
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