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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2021

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.7337 of 2021

T.Prabhakaran

... Petitioner

Vs.

1. The Superintendent of Police,
Office of the Superintendent of Police,
Cuddalore District.
2. The Deputy Superintendent of Police,
CB-CID,
Cuddalore Range,
Cuddalore.
3. The Inspector of Police,
Karuveppilankurichi Police Station,
Cuddalore District.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to transfer the investigation in Crime No.91 of 2021 on the file of the third respondent to the second respondent and to direct some other agency for further investigations and proceed with the same as per law within a time frame fixed by this Court.

For Petitioner : Mr.P.Kumaresan

For Respondents: Mr.A.Damodaran,
Government Advocate [Crl. Side]

O R D E R

This Criminal Original Petition is filed to transfer the investigation in Crime No.91 of 2021 on the file of the third respondent to the second respondent and to direct some other agency for further investigations and proceed with the same as



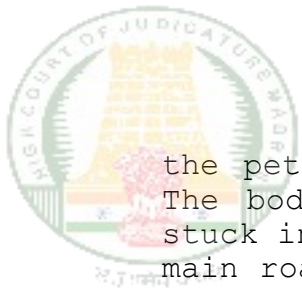
per law within a time frame fixed by this Court.

2.The contention of the petitioner is that on 08.04.2021, at about 07.00 p.m. the petitioner's father had informed that he is going to visit Mariamman Temple and thereafter failed to return back and the same was conveyed to the petitioner. The petitioner was returning from Virudhachalam and at about 11.30 p.m. he had reached his village and made a search, at that time he saw the accused in agitated mood and mud found all over the body of the accused. Thereafter he had left and on 09.04.2021, the body of the petitioner's father was found behind the well near the Devankudi-Virudhachalam Main Road with blood injuries, in the place where he had seen the accused on 08.04.2021. The accused took help of his friends and along with them he had done away his father. Hence he lodged a complaint on 09.04.2021 and after post-mortem the body was handed over to the family members of the deceased.

3.On the complaint of the petitioner, the case in Crime No.91 of 2021 came to be registered for the offence under Section 174 Cr.P.C. The dog squad employed, which proceeded up to the house of the accused, despite the same no action taken against the accused. Further he had sent another representation on 12.07.2021 naming five persons, involved in the murder of his father. Then to no action taken. Hence filed the above said petition.

4.Further there was enmity between the accused and the deceased since he was holding the post of Dharmakatha and looking after the temple in the village for the past 40 years, conducting periodical functions at the above said temple. One Viruthagiri Reddiyar and one Veerapandian wanted to take over the administration of the temple, in this regard, there was always a conflict and fight between the deceased and the above said persons. Further the respondent police failed to make any head way in the investigation. The blood stains were found in three concrete pillars opposite to the house of the Reddiyar and in one pillar the petitioner father's white hair was also found along with blood stains. The three pillars are located in the open place which also belongs to the said Reddiyar.

5.The occurrence had taken place within 300 metres of the petitioner's house. The white towel with blood stains was found near the body of the deceased, which was not of his father. There were prominent injuries found near one side of the ear and cheek, abrasions, cut injuries on the left hand confirmed that



the petitioner's father was severely attacked before the death. The body was dragged over the mud and one of the slipper was stuck in the mud near the well which was not of his father. The main road is covered by CCTV Camera. The recordings of the CCTV camera will disclose the images of the persons who were involved in the said occurrence. The respondent police have not investigated the matter in the above said aspect. Hence he had sent a representation.

6.The learned Government Advocate [Cr1. Side] filed the status report and the relevant portions are extracted as under:

"4.I submit that during the course of investigation, I have went to the scene of occurrence, prepared rough sketch and observation mahazar in the presence of witnesses viz., Tr.Senthamilselvan and Tr.Vaithiyalingam and also examined following witnesses and recorded their statements.

- (i) Tr.Prabhakaran defacto complainant/son of the deceased
- (ii) Tr.Sivasankaran son of the deceased
- (iii) Tr.Senthilkumar - relative of the deceased
- (iv) Tmt.Pushpavalli- wife of the deceased
- (v) Tmt.Sumathi - daughter-in-law of the deceased
- (vi) Tmt.Ramani - wife of the defacto complainant
- (vii) Tmt.Roobini - daughter-in-law of the deceased
- (viii) Tr.Venkatesan- son of the deceased
- (ix) Tmt.Tamilselvi relative of the deceased
- (x) Tr.Murugan- same villager of the deceased
- (xi) Tr.Baskar - same villager of the deceased
- (xii) Tr.Ramalingan - same villager of the deceased
- (xiii) Tr.Rayar- brother of the deceased
- (xiv) Tr.Rajeshkumar neighbour villager of the deceased

All of them corroborated the same version of the complaint.

5.I submit that on 10.04.2021, I have sent the nail clipping [DNA] taken from the body deceased to the Forensic Science Lab, Chennai for chemical analysis and the same is yet to obtain.

6.I submit that during the course of investigation, on 10.04.2021, I have obtained Post Mortem certificate from Dr.M.Arun, Assistant Professor, Department of Forensic Medicine, Government Hospital Villupuram and yet to be obtain the final opinion.

7. it is submitted that I have sent preserved Viscera samples to the Forensic Science Laboratory, Villupuram through one Tr.Veeramani, Grade- -1044 for chemical examination and the same is yet to be obtain.



9.I submit that during the course of investigation, on 18.04.2021, I have examined one Tr.Selvam/suspected person and recorded his statement which reveals that on the date of occurrence, one Selvakumar [A-2] came to Viruthagiri Reddiyar's place, at that time, the above said Selvam way laid A-2 and questioned him and he replied that one Ranjithkumar @ Krishna [A-1] called him over phone and asked to come to said place immediately. Hence, the above said Selvam suspected him, followed and found that A-1 and A-2 taken the deceased through Viruthagiri Reddiyar's house lane. Due to fear and some problem, he did not reveal the above incident to anybody Thereafter, on the date of occurrence, the said Selvam saw the petitioner/son of the deceased and wished him.

11.I submit that based on the statement of witnesses, on 18.04.2021, I have altered the section into 294 (D), 109, 201, 302 IPC from sec.174 (i) Cr.P.C.

12.I submit that based on that, on 18.04.2021, I have arrested A-1 and A-2 and recorded their confession statements in the presence of witnesses one Tr.Sakthivel, Village Administrative Officer and Tr.Thangasamy, Village Assistant and also seized case properties viz., brick, lungi [nos.2], T-shirt, shirt and knife under cover of seizure mahazar from them. Later, they produced before the Learned Judicial Magistrate No.I, Virudhachalam and sent to remand for judicial custody.

13.I submit that based on the confession statement of A-1 which reveals that the deceased illegal contact with the A-1's mother by name, Tmt.Sumathi, hence, A-1 with intention to murder of the deceased.

14.It is submitted that after completion of elaborate and detailed investigation, based on the statements of witnesses and material evidence, have submitted Draft Charge against A-1 and A-2 before the Public Prosecutor, Cuddalore and the same is pending for approval."

7.Considering the rival submission and on perusal of the typed set of papers filed by the petitioner and the status report of the respondent police, it is seen that the investigation in this case has been conducted in a proper manner and the suspect has been arrested. On the confession of the accused recoveries made, inquest conducted and sent the body for post-mortem, examined the Doctor, who conducted the post-mortem. Investigation in this case is in the penultimate stage and the charge sheet to be filed shortly. The grievances of the petitioner have all been addressed during the investigation.



8. In view of the above, this Court finds no reason to transfer the investigation and inclined to dismiss this Criminal Original Petition.

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9. Accordingly, this Criminal Original Petition stands dismissed.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy //

Sub Assistant Registrar

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To

1. The Superintendent of Police,
Office of the Superintendent of Police,
Cuddalore District.
2. The Deputy Superintendent of Police,
CB-CID,
Cuddalore Range,
Cuddalore.
3. The Inspector of Police,
Karuveppilankurichi Police Station,
Cuddalore District.
4. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.7337 of 2021

GPL (CO)
SU (09/09/2021)