

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.09.2021

PRONOUNCED ON : 05.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.9982 of 2021

Sekar

... Petitioner

Versus

1.The State of Rep. by its,
The Superintendent of Police,
Ranipet District.

2.The State of Rep. by its,
The Deputy Superintendent of Police,
Ranipet,
Ranipet District.

3.The State of Rep. by its,
The Inspector of Police,
CBCID, Ranipet,
Ranipet District.

4.The State of Rep. by its,
The Inspector of Police,
Thimiri Police Station,
Ranipet District.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the 1st and 2nd respondent Police to transfer the investigation to 3rd respondent Police namely the Inspector of Police, CBCID Ranipet District in Crime No.172 of 2021, dated 21.04.2021 pending on the file of the 4th respondent Police.

For Petitioner : Mr.D.Dayalan,
For Respondents : Mr.A.Damodaran,
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to transfer the FIR in Crime No.172 of 2021 from the file of the 4th respondent to the file of the 3rd respondent.

2.The petitioner is a senior citizen, defacto complainant in Crime No.172 of 2021 and grandfather of the deceased Anuthkumar. The case is that the petitioner's daughter is an Ex-counselor and her husband served in Indian Army as Commando. They have two sons viz., the deceased Anuthkumar and Paramjith. The deceased completed B.A., Defense in Voorhees College, Vellore. On 15.04.2021, at about 09.00 a.m., the deceased went to his college and returned back to his home at about 02.30 p.m., at that time, he received a call from one person. Suddenly, he left the house and on the same day, at about 05.30 p.m., the mother of the deceased received an information that the deceased fell down in a dry well at Kalavai Road. The petitioner along with

his daughter and son-in-law rushed to the scene of occurrence and saw his son with injuries on his head and two of his fingers were broken. The deceased was admitted in the Government Hospital, Arcot, from there, he was taken to Government Hospital, Adukamparai and later, he was admitted in the Government Rajiv Gandhi Hospital, Chennai for further treatment. Subsequently, on 20.04.2021, the deceased died. Hence, the 4th respondent Police registered a case in Crime No.172 of 2021 under Section 174 Cr.P.C.

3.The learned counsel for the petitioner submitted that according to the petitioner, on the date of occurrence, the deceased received a phone call from one Parthiban, S/o. Sekar and on the same day, at about 08.00 p.m., one Sathyamoorthy, S/o.Ganesan handed over the mobile of the deceased to his mother. The said Parthiban and Sathyamoorthy conspired together and called the deceased, attacked him on his head and broken his two fingers, pushed into the well and committed murder. In order to screen the same, they projected the murder as though it is an accident. The 4th respondent Police failed to conduct fair investigation to find out the real culprits. The Post-mortem certificate confirmed that the deceased sustained head injury and fracture of two fingers. Earlier, a direction petition was filed by the petitioner

in Crl.O.P.No.9120 of 2021 and the same was withdrawn on 13.05.2021. In this case, the investigation is at standstill and no progress. He further submitted that near the scene of occurrence, CCTV camera was available, but no steps taken to verify the same and not collected the call details of the said Parthiban and Sathyamoorthy. In the mobile phone of the deceased, he had left voice messages, which was not investigated by the 4th respondent Police. Hence, he filed the above petition seeking transfer of investigation.

4.The learned Government Advocate (Crl. Side) appearing on behalf of the respondents filed Status Report and submitted that a case in Crime No.172 of 2021 under Section 174 Cr.P.C., was registered on the death of the deceased. On the same day of occurrence, the 4th respondent Police visited the scene of occurrence and in presence of witnesses, prepared Observation Mahazar, Rough Sketch, sent the injured to the Government Rajiv Gandhi Hospital, Chennai for treatment. On the death of the deceased, inquest was conducted and the body was sent for Post-mortem. Thereafter, the body was handed over to the family of the deceased. During investigation, the petitioner, father and mother of the deceased as well as relatives were examined and their statements recorded. None of the witnesses whispered anything with regard to

the murder of the deceased and made no allegation.

5.The learned Government Advocate further submitted that earlier, a representation was sent by the mother of the deceased alleging that her father, the petitioner herein is an uneducated person and he without knowing the contents of the complaint, had signed the same at the instance of the Police. On the date of occurrence, the deceased was wearing two sovereigns of gold chain and ½ sovereign of ring and having cash of Rs.50,000/-, which were not recovered so far and no reason given for the same. Further, she stated that on the date of occurrence, the deceased received a phone call from one Parthiban and hence, she apprehended that the death was occurred to murder. On receipt of the representation, the 1st respondent Police/Superintendent of Police, Ranipet directed the 4th respondent Police to conduct detail investigation in Crime No.172 of 2021. Again, the 4th respondent Police reached the scene of occurrence, prepared Observation Mahazar, Rough Sketch and once again examined the witnesses present in the scene of occurrence and recorded their statements. So far 18 witnesses have been examined in this case.

6.The witnesses present near the scene of occurrence clearly stated that after hearing the fall sound, they rushed to the unused well, found the deceased in the well and hence, they called for help. Thereafter, Parthiban, Sathyamoorthy, the petitioner and his family members, rushed to the well, lifted the deceased and taken to the Government Hospital, Arcot through 108 ambulance. One witness Mannu stated that he wrote the complaint based on the information of the petitioner and after obtaining his signature, the complaint was lodged with the 4th respondent Police. The witnesses Shakila and Shantha have stated that at about 05.30 p.m., they heard sound from the well and when they rushed to the well, saw Prabhu, Parthiban, Sathyamoorthy, the petitioner and his family members, trying to lift the deceased from the well. This is corroborated by the witnesses Vijay and Poovarasan. The Casualty Medical Doctor Meena from the Government Hospital, Arcot examined the injured and made entry in the Accident Register that the injured was brought by his father, who informed that his son fell down in a dry well. The Fire and Rescue Service personnels reached the scene, lifted the injured from the well with the help of villagers.

7.It is further submitted that prior to the occurrence, the deceased kept camera in the bathroom of one Deepa's residence and recorded some pictures. The camera was found by Parthiban and Sathyamoorthy, when the same was questioned with the deceased, initially he denied and later, he admitted that he only placed the camera in the bathroom and handed over the memory card, in which some video recordings found and informed that one more memory card is available with him and he asked Parthiban to wait and shall bring back the memory card from his home. In spite of going to home, the deceased fell down in the well. The Post-mortem Doctor confirmed that the injuries could have occurred due to accidental fall. Further, specific query was made to the Post-mortem Doctor that whether the injuries mentioned in the Post-mortem certificate were accidental or homicidal in nature, the Post-mortem Doctor clarified that the injuries mentioned in the Post-mortem certificate were more likely to be accidental in nature. Thus, from the materials available and the witnesses examined, it is clear that it is only an accident and due to which, the deceased sustained injuries. Hence, he prayed for dismissal of this petition.

8.This Court considered the rival submissions and perused the materials

available on record.

9.This Court called for the Case Diary in Crime No.172 of 2021 from the 4th respondent Police and perused the same, which is in conformity to the submissions and the Status Report filed by the learned Government Advocate (Crl. Side).

10.From the Observation Mahazar, Rough Sketch and Inquest Report, it is seen that the well was very deep, dry and rocky. The inquest witnesses as well as the medical witnesses confirmed that the death is due to fall into the well. From the statement of all the witnesses, it is seen that it is an accidental fall and no witnesses stated that the deceased was forcibly pushed into the well. Further, the injuries sustained by the deceased caused doubt that he was assaulted and pushed into the well, which is negated by the Post-mortem Doctor by her opinion that the injuries could have been sustained due to fall and not on assault. As regards missing of gold chain and cash are concerned, when the body was lifted with the help of fire service, the petitioner and the parents of the deceased and other witnesses were present in the scene of occurrence, but they did not state about the gold chain and cash in their statements. Further, the call details particulars are received from the Nodal

Officer.

11.The contention of the petitioner that the complaint has been written by the Police is also negated by one Mannu, the neighbour of the petitioner. The said Mannu in his statement categorically stated that he wrote the complaint as stated by the petitioner. On the representation of the mother of the deceased, the Superintendent of Police, Ranipet/1st respondent issued a direction to the 4th respondent for further investigation and the same was done, which confirms that the deceased had fell into dry, rocky well and sustained injuries and later, succumbed to death.

12.In view of the above, no justifying reason is found for transfer of investigation in Crime No.172 of 2021. Hence, this Court finds that the investigation so far conducted by the 4th respondent is proper and the apprehension of the petitioner is misplaced.

13.In the result, this Criminal Original Petition stands dismissed.

05.10.2021

Speaking order/Non-speaking order
Index: Yes/No
Internet: Yes/No

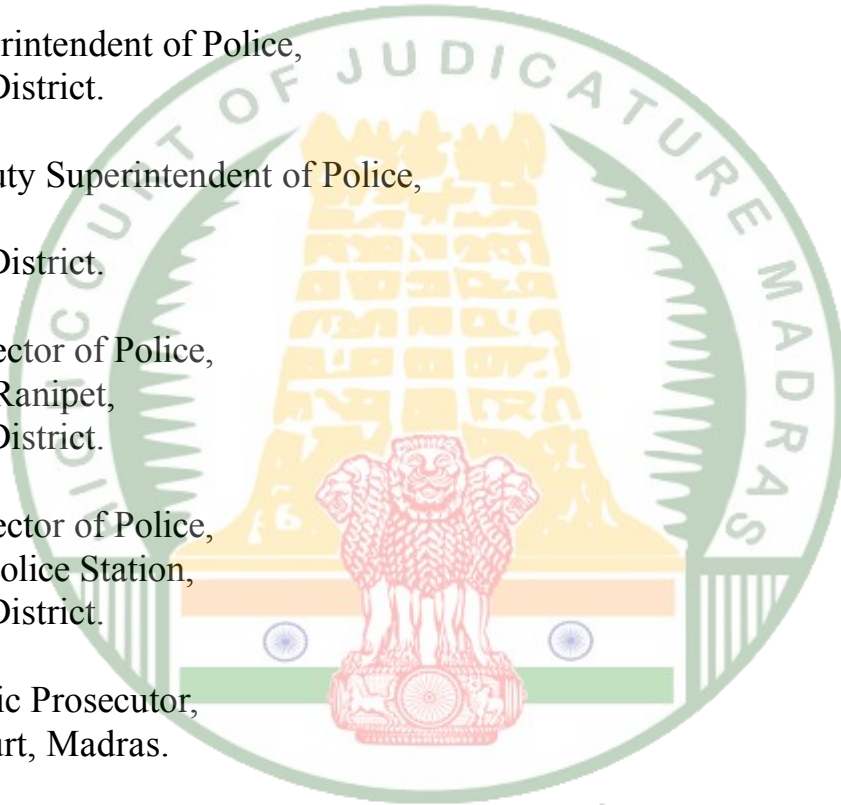
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M.NIRMAL KUMAR, J.

vv2

To

- 1.The Superintendent of Police,
Ranipet District.
- 2.The Deputy Superintendent of Police,
Ranipet,
Ranipet District.
- 3.The Inspector of Police,
CBCID, Ranipet,
Ranipet District.
- 4.The Inspector of Police,
Thimiri Police Station,
Ranipet District.
- 5.The Public Prosecutor,
High Court, Madras.



PRE-DELIVERY ORDER IN

Crl.O.P.No.9982 of 2021

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