



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.16578 OF 2021

AND

CRL.M.P.NO. 9053 OF 2021

P.Sekar

S/o.Ponnusamy

... Petitioner

Versus

1. The Director General of Police for Tamil Nadu,
Chennai.

2. The Superintendent of Police,
Erode District.

3. The Inspector of Police,
Bhavani Police Station,
Erode District.

(FIR.No.73/2021)

... Respondents

PRAYER:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to transfer the case registered in FIR.No.73 of 2021 dated 17.01.2021 filed under section 174 of the Code of Criminal Procedure, 1973 pending before the 3rd respondent to CBCID, Erode District or to any other agency for fair investigation.

For Petitioner : Mr.V.T.Balaji

For Respondents : Mr.R.Vinothraja,
Govt. Advocate (Crl.side)

ORDER

(This case has been heard through video conference)

The petitioner/defacto complainant, brother of one Kumar found to be dead in mysterious circumstances. Having doubt over the death of brother, he lodged a complaint to the respondent police in Crime No.73 of 2021 for an offence under Sec.174 of



Crl.P.C. filed, but no action taken. Hence, the present transfer petition filed.

2. The contention of the petitioner is that his brother, after finishing B.B.A. Degree joined in a Garment factory and he was unmarried. His brother was working in Kumaraguru Garments, there, he met one Thilagavathi, wife of Kumaresan, who was living separately and both of them developed interest each other and living together and later, there development some differences between them. This being the case, on 17.07.2021 at about 06.15 p.m. the said Thilagavathi informed the petitioner that his brother found dead in a bedroom wearing only brief innerwear. Further, she has informed that on the previous night 16.01.2021 at about 11.00 a.m., both ate together and he went out of the house and he came back in drunken stage and on the next day, he was found dead. The petitioner having suspicious in the manner of death, the said Thilagavathi along with some other persons must have committed the murder of his brother Kumar. Thereafter, he has sent a representation to the respondents police, but no action was taken and no worthwhile investigation report filed. After the petitioner filed the above petition, on 24.08.2021 the respondent police in a hurried manner had attempted to serve closure report. When the petitioner refused to receive the same, in the presence of Village Administrative Officer, Kesarimangalam Village, the notice was stuck and the compliance of service of notice was made. Thereafter, the attempts were made to file a closure report before the lower court.

3. The learned Government Advocate (Criminal Side) appearing for respondents would submit that the F.I.R. came to be registered under Section 174 of Crl.P.C. Thereafter, after detailed enquiry, the investigation in this case was closed as "mistake of fact" on 13.09.2021. When the closure report was attempted to be served to the petitioner, he refused to receive the same and thereafter, in the presence of Village Administrative Officer, notice was stuck. During the investigation, 19 witnesses examined and their statements recorded. After getting medical opinion and Post-mortem report, the case has been closed as "further action dropped". If the petitioner is having any grievance, he can file a protest petition in support of his contentions before the lower court.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the respondents.

5. Considering the submissions and on perusal of materials, already the case has been closed as "further action dropped" on 13.09.2021, and notice was stuck in the presence of the Village



Administrative Officer. In view of the same, the petitioner to be furnished with the closure report and other materials, which the prosecution relied on to arrive at the closure report. Thereafter, it is for the petitioner to approach the concerned jurisdictional Magistrate to file his protest petition, if he is so advised. Accordingly, this Criminal Original Petition is disposed of and consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rpp/nr

To

1. The Director General of Police for Tamil Nadu, Chennai.
2. The Superintendent of Police, Erode District.
3. The Inspector of Police, Bhavani Police Station, Erode District.(FIR.No.73/2021)
4. The Public Prosecutor, High Court, Madras.

+lcc to Mr.V.T.Balaji, Advocate, S.R.No.49602

CRL.O.P.No.16578 of 2021

PCH(CO)
CS/12/10/2021