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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2021

C O R A M

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

CRL.OP.No.5603 of 2017

A.Nagarajan

...Petitioner

Vs

1. The State by Inspector of Police,
Nallur Police Station,
Namakkal District.

2. The Inspector of Police,
CBCID, Namakkal,
Namakkal District.

...Respondents

Prayer Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, prayed to transfer the investigation of the case registered in Crime No.170 of 2016 on the file of the first respondent - Inspector of Police, Nallur Police Station to the file of the second respondent - Inspector of CBCID of Namakkal District for further investigation and to file final report.

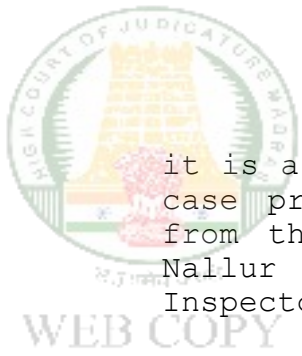
For Petitioner : Mr.J.R.K.Bhavanantham

For Respondent : Mr.L.Baskaran
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed seeking to transfer the investigation of the case registered in Crime No.170 of 2016 on the file of the first respondent - Inspector of Police, Nallur Police Station to the file of the second respondent - Inspector of CBCID of Namakkal District for further investigation and to file final report.

2.The learned counsel for the petitioner submitted that the petitioner's son died in a suspicious manner, the dead body and his motorcycle was found at Osuvakadu in the area of Rakiyavalasu to Veppapalayam Road. Therefore, he submitted that



it is a suspicious death and the Police is not investigating the case properly. Hence, he prayed to transfer the investigation from the file of the first respondent - Inspector of Police, Nallur Police Station to the file of the second respondent - Inspector of CBCID of Namakkal District.

3.The learned Government Advocate for the respondents submitted that the first respondent has conducted the investigation and based on the postmortem report, the chemical opinion and other reports, the case was closed recording as "further action dropped". He further submitted that, in the chemical opinion, it is clearly stated that the deceased had consumed Monocrotophos poison and there was no external bodily inquiry. Under such circumstances, the closure report was filed and the case was closed as "further action dropped" on 10.01.2018. In this regard, a Referred Notice No.15 of 2018 was also sent to the petitioner on 10.01.2018.

4. In reply, the learned counsel for the petitioners submitted that no such referred notice was received by the petitioner. Further, as per the law laid down in the case of Bhagwanth Singh vs. Commissioner of Police reported in 1985 (2) SCC 537, the investigating officer has to send a notice to the defacto complainant and a final report to the Court concerned. Thereafter, on receipt of the closure report filed by the Investigating Officer, the Court has to send a notice to the defacto complainant, but no such procedure has been followed in the present case.

5.The learned counsel for the petitioners further submitted that, in the event the petitioner decides to oppose the decision of the Court below, he may be permitted to have the closure report. The learned Government Advocate fairly submitted that the respondents are ready to provide the petitioner a copy of the closure report along with the documents relied thereon.

6.In view of the above submissions made by either side counsel, this Court is of the view that the petitioner is at liberty to approach the Court below by way of protest petition. The only issue arises is in respect of limitation aspect in approaching the Court below. The protest petition has to be filed with a period of one week from the date of furnishing of closure report. Since the learned counsel for the petitioner submits that no notice was served along with the closure report to the petitioner, this Court is of the view that unless and otherwise the prosecution serves the notice along with the closure report and the documents relied thereon, the petitioner would not be in a position to approach the Court below by way of protest petition. Therefore, this Court directs the petitioner to give a letter to the first respondent to provide him a copy



of the closure report along with the documents relied on in support of the closure report within a period of one week from the date of receipt of a copy of this order. After the receipt of the said letter, the first respondent shall provide a copy of the closure report along with the available documents to the petitioner within a period of one week from the receipt of the petitioner's letter. On receipt of the same, the petitioner is directed to approach the Court below within a period of fifteen days from the date of receipt of the closure report along with the documents.

7. In the result, with the above directions, this Criminal Original Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To:

1. The Inspector of Police,
Nallur Police Station,
Namakkal District.
2. The Inspector of Police,
CBCID, Namakkal,
Namakkal District.
3. The Public Prosecutor,
High Court, Madras-104.

CRL.OP.No.5603 of 2017

PA (CO)
PR (23/11/2021)