



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.OP.No.27579 of 2018

Periyasamy

... Petitioner

Vs

1. State rep. by
The Inspector of Police,
Railway Police Station,
Salem.
2. The Inspector of Police,
Deevattipatty Police Station,
Kadayampatty TK, Salem District.
3. The Inspector of Police,
Central Crime Branch
O/o. The Central Crime Branch,
Ammamet Town Police Station Road,
Ammamet, Salem District - 636 004.
4. The Inspector of Police,
CB -CID No:85 Krishna Street,
Near Sidhivinayagarkovil
Nedunchalai Nagar,
Suramangalam, Salem DT 636 005.
5. The Superintendent of Police,
Salem Railways.
(R5 is Suo - Moto impleaded as
per order in Crl.O.P.No.27579/18
and Crl.M.P.No.11861 of 2019
dated 15.11.2019)

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to withdraw and Transfer the investigation from the 1st respondent to the 4th respondents or some other independent agencies in Crime No. 27 of 2018 dated 19.02.2018 on the file of Inspector of Police, Railway Police Station, Salem.



For Petitioner : Mr.C.Girishbabu
For Respondents : Mr.C.E.Pratap
Government Advocate (Crl.Side)

WEB COPY

ORDER

This Criminal Original Petition has been filed to withdraw and transfer the investigation in Crime No.27 of 2018 from the 1st respondent to the 4th respondent or some other independent agency.

2. The case of the prosecution is that the petitioner's son went to one Baskar, S/o. Kailasam on 18.02.2018 regarding purchase of a new car and thereafter, he did not return home. Therefore, the petitioner and other family members were searching for Baskar in various places. But, he could not be found. Hence, the petitioner made a criminal complaint before the first respondent. At the time, the petitioner was informed about the unknown dead body found in the locality of Veppadiaruat Railway track, which is between the Bommidi RS and Logur RS K.M. 291 /10-12 down line. Upon the physical verification of the dead body, it was found to be prior of the petitioner's son. The first respondent registered a case in Crime No.27 of 2018. However, the petitioner suspected prior his son was murdered. Already, the petitioner's family had made a complaint before the police on 13.08.2018. Thereafter, the petitioner had repeatedly made complaints before the Inspector of Police, Deevattipatty Police Station, Kaadayampatty Taluk, Salem District. However, the police have not taken any steps. Hence, the petitioner filed a Criminal Original Petition under Section 482 of Cr.P.C to transfer the investigation to the 1st respondent and the said petition was closed on the ground that the viscera report has not been received. Hence, this Court gave liberty to the petitioner to approach this Court at a future date.

3. The learned counsel for the petitioner submits that on earlier occasion, the petitioner approached this Court for transfer of the case to CBCID. However, this Court by an order dated 11.06.2018. closed the petition on the ground that the doctor's report was awaited and the post-mortem report has not been received. Thereafter, the post-mortem report was received and it clearly showed that five items were examined but alcohol or other poison was not detected in any of them. The investigating authorities had not properly investigated the matter. Hence, the present petition has been filed by the petitioner



4. The learned Government Advocate (Crl.Side) submitted that already the matter was investigated by the law enforcing agency and a closure report was filed before the Judicial Magistrate No.III, Salem in RCS No.1 of 2019 and further RCS notice was served on the petitioner. He further submits that if any closure report is filed, the petitioner has to file a petition before the competent Court not before this Court. Accordingly, he prayed for dismissal of the petition.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondents.

6. The present facts are not in dispute, the petitioner's son body was found in the locality of Veppadiaruat Railway track, which is between the Bommidi RS to Logur RS K.M. 291 /10-12 down line. Upon the physical verification of the dead body, it was found to be the body of the petitioner's son. The respondent police have registered a case in Crime No.27 of 2018. The Doctor who conducted the post-mortem examination has opined that poison or alcohol was not present in the body of the petitioner's son and he would appear to have died of shock and hemorage..

7. It appears that the investigation officer investigated the matter and filed a closure report before the Judicial Magistrate No.III, Salem. In such view of the matter, without filing a protest petition before the competent Court, perusing the petition under Section 482 of Cr.P.C is not maintainable.

8. The Petitioner has received the closure report and he is entitled to approach the trial Court for pursuing the remedy available.

9. In view of the above, this Criminal Original Petition is disposed of by giving liberty to the petitioner to file a petition before the trial Court. If the petitioner had not received the closure report, the respondent police is directed to furnish the closure report to the petitioner within a period of two weeks.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar



To

WEB COPY

1. The Inspector of Police,
Railway Police Station,
Salem.
2. The Inspector of Police,
Deevattipatty Police Station,
Kaadayampatty TK, Salem District.
3. The Inspector of Police,
Central Crime Branch
O/o. The Central Crime Branch,
Ammapet Town Police Station Road,
Ammapet, Salem District - 636 004.
4. The Inspector of Police,
CB -CID No:85 Krishna Street,
Near Sidhivinayagarkovil
Nedunchalai Nagar,
Suramangalam, Salem DT 636 005.
5. The Superintendent of Police,
Railway Police Station,
Salem.
6. The Public Prosecutor
High Court of Madras.

+1cc to Mr.G.Munuraj, Advocate, S.R.No.34295

CRL.OP.No. 27579 of 2018

CP(CO)
CB(23/08/2021)