



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.07.2021

Pronounced on : 16.09.2021

WEB COPY

CORAM :

THE HONOURABLE **Mr. JUSTICE G.ILANGO VAN**

Crl.O.P.(MD)No.1444 of 2021
and
Crl.M.P.(MD)No.688 of 2021

Gangadharan ... Petitioner/Defacto Complainant

Vs.

1.The Commissioner of Police,
Madurai.

2.The Deputy Commissioner of Police,
Madurai City.

3.The Inspector General of Police,
CBCID, Egmore,
Chennai.

4.The Deputy Superintendent of Police,
CBCID, Chokkikulam,
Madurai.

5.The Inspector of Police,
Thallakulam Police Station,
Madurai District.

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to transfer the investigation in Crime No.20 of 2021 dated 05.01.2021 from the 5th respondent to the 4th respondent CBCID.

For Petitioner : Mr.J.Gunaseelanmuthiah

For Respondents : Mr.R.M.Anbunithi,
Additional Public Prosecutor.

ORDER

This petition is filed seeking transfer of investigation from the file of the fifth respondent to the file of the fourth respondent herein.

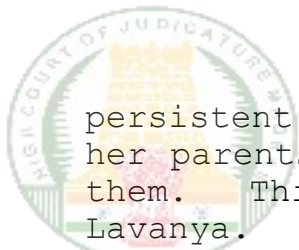
<https://hcservices.ecourts.gov.in/hcservices/>



2.The case of the prosecution is that the petitioner's daughter by name Divya was married to one Muthaiah @ Muthukumar on 27.08.2017. It was inter-caste marriage. After the marriage within a month, Muthukumar went to Singapore on duty and Divya was left in his parental home. Later Divya went to Singapore and after some months, she returned to Madurai and lived along with her mother-in-law and father-in-law and others in a joint family. A daughter was also born to them. When she was living in a joint family along with the above said in-laws, they had demanded money, ill-treated and assaulted her. This was also informed to her sister through phone. Because of the ill-treatment, she committed suicide on 05.01.2021. A complaint was also lodged on 05.01.2021 before the fifth respondent and a case was registered in Crime No.20 of 2021 under Section 174(3) of Cr.P.C. Even though penal provision and Tamilnadu Prohibition of Harassment of Woman Act were made out, those sections were not included in the First Information Report. Even after a lapse of several days, no investigation was not undertaken in the proper manner. So she made a representation dated 13.01.2021 seeking transfer of investigation. Since there was no proper response to the aforesaid representation, this petition is filed.

3.Heard both sides and entire case diary files were also called for and perused the same. It is a case of suicide aged about 23 years and she had a baby 1 ½ years old, when her husband was abroad in attending duty. The case was registered in Crime No.20 of 2021 under Section 174(3) of Cr.P.C. Now the allegation of the petitioner is that because of the continuance harassment made by the in-laws, she was forced to commit suicide. So it is clear case of offence under Section 304(B) of I.P.C., and the penal provisions under Tamilnadu Prohibition of Harassment of Woman Act. But so far no alteration report has been prepared and no investigation was undertaken on that direction.

4.Perusal of the entire case diary files as well as pleadings of the petitioner, it is seen that there was quarrel between Divya namely, the deceased and her in-laws over the importance given by Muthukumar, the husband of the deceased to her. It appears that Muthukumar was sending money to Divya and also purchased a property in her name. This was not liked by her in-laws. During the course of investigation, the statement of all the persons including the in-laws were recorded. From the statement of the witnesses, it is seen that the dispute arose between the deceased and in-laws over the execution of power of attorney in the name of the above said Divya. It is also seen that as usual and as it happens any where in in-law's houses, petty quarrel on domestic issues took place between the deceased and her in-laws. The mother-in-law was working and the deceased was home maker. The report of the Revenue Divisional Officer shows that there was no harassment demanding dowry. During the enquiry, the accused have stated that there was



persistent pressure upon the deceased not to have conversation with her parents and relatives. She was not allowed to talk freely with them. This was also told by the sister of the deceased namely, Lavanya. From the statement of the witnesses, the Revenue Divisional Officer had come to the conclusion that there was no ill-treatment demanding dowry. Perusal of the records shows that a property was purchased in the name of the deceased by her husband and steps were taken to obtain loan for putting up construction. As per the investigation, steps were taken to show that trouble arose between the deceased and the in-laws on purchasing the property in the name of the deceased and subsequent steps for obtaining loan. This was normal and usual quarrels that takes place in the every day's life that too when a wife is residing alone in in-law's house, when a husband is away. But that cannot be taken as a harassment demanding dowry. However, the learned counsel for the petitioner would heavily rely upon the conversation that took place between the deceased and her sister namely, Lavanaya just before the suicide attempt and the content of the conversation is also annexed along with the typed set of papers and a pendrive containing conversations placed before this Court. The conversation as usual regarding petty issues. The entire conversation shows that her complaint was that she was not properly treated by in-laws and her husband was also not making objections regarding the involvement of the husband of her sister in domestic affairs. It is also seen that such a quarrel was not brought to the notice of the husband. The in-laws demanded that the domestic issues must not be revealed to others. But the deceased was persisting upon informing her sister and parents. She also made a complaint against the husband for not taking proper steps to redress her grievances. This conversation shows that as I mentioned earlier, it is usual domestic and petty issues. Whether the treatment of the accused persons drove the deceased to commit suicide can only be a matter for consideration during the course of investigation and trial. I am of the considered view that investigation is being properly undertaken in proper direction and no biased attitude has been brought on record on the part of the investigation officer. It is also seen that no attempt is also made by the investigation officer to screen the offenders. Transfer of investigation is possible and desirable, only in a case of strong materials to suggest that investigation was not properly undertaken and it is an attempt to screen the array of offenders. There is no such circumstances in this case. The petitioner wants to be enquired once again. He is also at liberty from taking the further statement before the investigation officer. In the light of the specific allegation, the investigation officer may also record the further statement of the petitioner and the deceased's sister namely, Lavanaya.

5.I am of the considered view that no strong case has been made out for transferring the investigation. However, in the facts and circumstances of the case, a direction may be issued to the investigation officer to record the further statement of the



petitioner as well as the deceased's sister namely, Lavanya. The investigation officer is directed to complete the investigation within a period of three months from the date of receipt of a copy of this order and file the final report before the concerned Court. After filing the final report, a copy of the same may also be circulated to the Registry. The Registry is directed to hand over the pendrive containing the conversations between the deceased and his sister to the fifth respondent, after making a copy of same, by due acknowledgment.

6. With the above directions, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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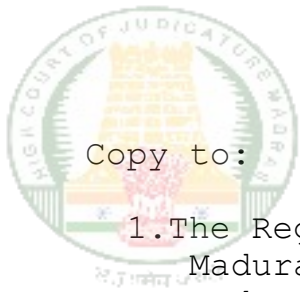
Sub Assistant Registrar (CS)

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Note In view of the present lock down owing to COVID-19 pandemic,
: a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Commissioner of Police,
Madurai.
2. The Deputy Commissioner of Police,
Madurai City.
3. The Inspector General of Police,
CBCID, Egmore, Chennai.
4. The Deputy Superintendent of Police,
CBCID, Chokkikulam, Madurai.
5. The Inspector of Police,
Thallakulam Police Station,
Madurai District.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



Copy to:

1.The Registrar(Judicial),
Madurai Bench of Madras High Court,
Madurai.

2.The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.

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MGJ(27.09.2021) 5P 9C