



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 06.07.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P. (MD)No.3474 of 2021

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... Petitioner

Vs.

1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.

2.The Additional Director General of Police,
C.B.C.I.D Wing, SIDCO Electronic Complex,
Block No.3, 1st and 3rd Floor,
Guindy Industrial Estate,
Chennai - 2.

3.The Inspector General of Police,
South Zone, Race Course Road,
Madurai - 2.

4.The Superintendent of Police,
Sivagangai District, Sivagangai.

5.The Deputy Superintendent of Police,
Manamadurai, Sivagangai District.

6.The Inspector of Police,
C.B.C.I.D WING,
Sivagangai, Sivagangai District.

7.The Inspector of Police,
Manamadurai Police Station,
Manamadurai, Sivagangai District.
(Crime No.767 of 2020)

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to withdraw the investigation of the case registered in Crime No.767 of 2020 dated 28.12.2020 pending on the file of the 7th Respondent Police and transfer the same to the 6th Respondent investigating agency for the purpose of taking appropriate effective and expeditious investigation by altering appropriate penal provisions.

For Petitioners : Mr.S.Veeranasamy

For R1 : Mr.R.M.Anbu Nithi,
Additional Public Prosecutor.



ORDER

This petition is filed seeking a direction to withdraw the investigation in Crime No.767 of 2020, dated 28.12.2020, from the file of 7th respondent and transfer to the file of 6th respondent or some other agency.

2. Case of the petitioner:-

(i) The petitioner's daughter by name, Kavitha was married to Moorthy, on 17.05.2019, at Manamadurai Valividu Murugan Temple. He was given customary gold ornaments and other household articles. After marriage, they started their life in the matrimonial house of her mother-in-law by name, Indra and sister-in-law. It was a joint family. Originally, her daughter and her son-in-law loved each other and that was not liked by the mother-in-law and sister-in-law and because of that, after marriage, they started harassing her daughter.

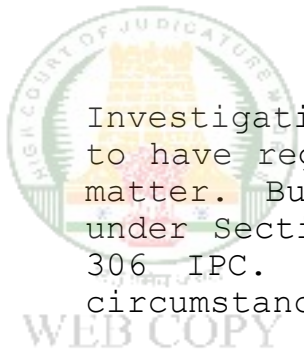
(ii) On 13.02.2020, a male child was born to them. After that, she went to her matrimonial house. At that time, there was a local body election. In that election, his daughter supported one Radha Senthilkumar. But, whereas, Moorthy and his family supported the opponent by name, Bharathi Mohan and because of that, she was attacked by them and driven out of the house. Later, the matter was compromised and she was taken back.

(iii) On 25.12.2020, the mother-in-law and sister-in-law picked up a quarrel with her daughter and the same was informed to the petitioner. At about 10.30 a.m, when the petitioner went to the house, she saw his son-in-law, pouring kerosene on her daughter and setting fire. At that time, the mother-in-law and sister-in-law instigated the son-in-law. She ran with fire and was taken to the Government Hospital, Manamadurai and thereafter, she was shifted to the Government Hospital, Sivagangai for further treatment. Later, she was taken to Kennet Hospital, Madurai. But, she died on 28.12.2020, at about 5.45 am., in respect of which, a case in Crime No.767 of 2020 for the offence punishable under Section 174 (3) of Cr.P.C was registered. Later, it was altered into 306 IPC.

3. The Investigation Officer, instead of registering a case as 'murder' under Section 302 IPC, investigated the matter under Section 306 IPC. During the enquiry by the Revenue Divisional Officer, injuries were found on the body of her daughter. Seeking transfer of investigation, she made a representation to the respondents, on 22.01.2021. But, there is no response. Hence, this petition.

4. Heard both sides.

<https://hcservices.courts.gov.in/hcservices> The main grievance of the petitioner is that the



Investigating Officer, namely, the seventh respondent herein, ought to have registered a case under Section 302 IPC and investigate the matter. But, originally, the First Information Report was filed under Section 174 (3) Cr.P.C and later, it was altered into Section 306 IPC. According to the petitioner, based on the facts and circumstances of the case, this is not proper.

6. The learned Additional Public Prosecutor would submit that since after the occurrence, the deceased was admitted in the hospital and during the course of dying declaration before the learned Judicial Magistrate, Sivagangai, on 25.02.2020, wherein, she has not implicated her husband, mother-in-law and sister-in-law with regard to the offence under Section 302 IPC. Even during the course of enquiry by the Revenue Divisional Officer, no case of murder has been made out. Even in the statement given by the petitioner before the Investigating Officer, she stated that her daughter committed suicide by pouring kerosene and set fire on her own.

7. According to the learned Additional Public Prosecutor, the investigation has been properly conducted and materials have been collected in the right direction and there is no necessity to transfer the investigation. It has also been brought to the notice of this Court that the petition for anticipatory bail filed by the deceased's husband namely, Moorthy in Crl.OP(MD)No.753 of 2021, was dismissed on 29.01.2021. But, whereas, the anticipatory bail filed by the mother-in-law and sister-in-law in Crl.OP(MD)No.809 of 2021, was allowed on 26.02.2021. The second bail petition filed by the husband of the deceased in Crl.OP(MD)No.5082 of 2021 is also pending. After completing the investigation, the fifth respondent, produced the same, before the Director of Prosecution, Sivagangai District for obtaining opinion. After obtaining opinion, final report was field before the concerned Court.

8. At the request made by this Court, the dying declaration of the deceased as well as the entire CD file have been produced. On perusing the dying declaration and CD file fully and from the perusal of the documents, I am of the considered view that a belated attempt is tried to be made by this petitioner to transfer the investigation on the ground that her daughter has been murdered. But, as mentioned earlier and as pointed out by the learned Additional Public Prosecutor, the deceased did not make any complaint against her husband that he has poured kerosene on her and set fire on her on the instigation of the other accused persons. Even during the First Information Report, the petitioner has not stated anything about the allegation of murder. So, belated attempt, on the part of the petitioner cannot be appreciated, at this stage since the investigation is completed. Nothing survives in this petition for further consideration.

9. Moreover, on merits also, there is no reason to transfer the
<https://hcmvscourts.gov.in/home> So, this petition deserves dismissal and accordingly,



the same is dismissed. The 5th respondent herein is directed to file a final report within 15 days from the date of receipt of copy of this order before the concerned Court.

Sd/-

Assistant Registrar (CS-I)

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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 Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.
- 2.The Additional Director General of Police,
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C.B.C.I.D WING,
Sivagangai, Sivagangai District.
- 7.The Inspector of Police,
Manamadurai Police Station,
Manamadurai, Sivagangai District.
- 8.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P. (MD)No.3474 of 2021

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