



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED : 03.08.2021

ORDER PRONOUNCED : 22.10.2021

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**
Crl.O.P. (MD)No.8432 of 2021

P.Veerapillai ... petitioner/Complainant

Vs.

1.The Superintendent of Police,
Dindigul District.

2.The Deputy Superintendent of Police,
CBCID, Dindigul District.

3.The Inspector of Police,
Dhandikombu Police Station,
Dindigul.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the 1st respondent to withdraw the case in Crime No.427 of 2018 on the file of the 3rd respondent and transfer the same to some other competent Investigating Agency.

For petitioner : Mr.A.Joseph Jerry

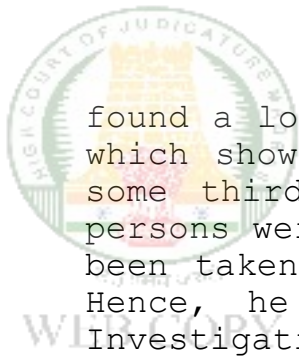
For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor (Crl.Side)

ORDER

This petition is filed seeking transfer of investigation from the file of the 3rd respondent to some other Agency or Officer.

2.The petitioner is the defacto complainant in Crime No.427 of 2018 on the file of the 3rd respondent, which was registered for the offences punishable under Sections 279 and 337 of IPC. Later, it was altered to Sections 279 and 304 A of IPC. The deceased, who is the son of the petitioner, was found dead on suspicious circumstances on 19.09.2018 at Madurai to Salem Road near EB - Head Office, Dindigul along with his Hero Honda Bike bearing Reg.No.TN 57 AA 1989.

3.The complaint was lodged by the petitioner, on the basis of the information furnished by him from the third parties, who were available in the place of occurrence. But later, the petitioner



found a loan agreement dated 15.09.2018 for a sum of Rs.2,00,000/-, which shows that the petitioner's son lend the aforesaid amount to some third parties. Apart from that, the names of the suspected persons were also given by the petitioner, but so far, no action has been taken and the investigation has not been properly undertaken. Hence, he filed Crl.O.P.(MD) No.437 of 2019 seeking change of Investigation Officer. This Court, by the order dated 17.10.2019, gave a direction to the effect that the suspected persons must be included and the final report must also be filed within 3 months. Later, it was found that the 3rd respondent instead of finding the suspected persons tried to file the final report, by closing the case. Hence, this petition.

4.It is a case of suspicious death, according to the petitioner. According to the 3rd respondent it is a case of hit and run accident. In spite of the best efforts made by the Investigation Officer, so far no clue is available and so, the case was closed as undetected one. A copy of the closure report has also been circulated to this Court by the learned Additional Public Prosecutor (Crl.side), which is dated 07.01.2020.

5.In the concluding portion of the final report, the 3rd respondent has stated that if any clue is made available in future, further proceedings will be undertaken. On that ground, he has closed the case as undetected one. Now, the grievance of the petitioner is that in spite of the specific direction that has been issued by this Court in Crl.O.P.(MD) No.437 of 2019, the names of the suspected persons have not been included and the investigation has not been undertaken on that basis.

6.The suspected persons, namely, K.Periyasamy, S.Senthil Kumar, P.Murugeswari, Vasantha Sheela, K.Rajendran and S.Kanagalakshmi filed Crl.O.P.(MD) No.20095 of 2018 before this Court arraying this petitioner as 3rd respondent, seeking direction to the 2nd respondent therein not to harass them. It was disposed of on 19.11.2018.

7.In that petition, those persons have stated that they obtained loan from the son of the petitioner and for that purpose, they executed documents and also undertook to repay the same, since the son of the petitioner died in accident. However, they stated that the petitioner herein pressurized them to settle the amount at one stroke. They also filed an undertaking affidavit before the Court to settle the amount.

8.It is seen that the son of the petitioner alleged to have obtained documents from those persons stating that they received a sum of Rs.2,00,000/- from him, whereas, such persons have stated that they received only a sum of Rs.1,00,000/- and that amount was also undertaken to be paid. On that ground, it was closed on the aforesaid date.



9.Now the petitioner says that those borrowers are the suspected persons in the death. At the first time, when the petitioner lodged the complaint, he did not make any allegation against the suspected persons. In the complaint, it has been specifically stated that as per the information by the persons, who were available near the place of occurrence, the accident took place. Since the vehicle, which was moving ahead of the deceased's vehicle, has been stopped suddenly, the deceased dashed behind the vehicle and sustained injuries. This was intimated to the petitioner by one Murugan and Palanisamy. But later, it is seen that when the loan transaction came to the notice of the petitioner, suddenly he started to make allegations and suspected the aforesaid borrowers.

10.The first representation making doubt was made on 29.11.2018. Thereafter, the petitioner filed Crl.O.P.(MD) No.437 of 2019, which was filed after the disposal of Crl.O.P.(MD) No.20095 of 2018, dated 19.11.2018. The petitioner's doubt and suspicion were found to be not true during the course of investigation.

11.The aforesaid suspected persons have given their statements. After going through all those statements, the 3rd respondent herein came to the finding that it is a case of accident, which involved hit and run. So, I find that the petitioner entertained unnecessary doubt and suspicion against those borrowers. He pressurized those borrowers to settle the amount at one stroke, which they did not. It appears that because of that, he developed suspicion against those persons, which is totally unconnected with the aforesaid hit and run accident case.

12.However, it is more or less well settled to the effect that the closure of criminal investigation as undetected one is not in effect a closure of investigation forever. It is liable to be reopened at any time, if any clue is available in future. This law is declared by this Court in number of judgments, more particularly, by the Division Bench of this Court in the case of **Chinna Thambi @ Subramani Vs. State of Tamil Nadu** dated 08.06.2016, which approved the view expressed in **R.Ramamurthy Vs. State** reported in **1991 (1) LW (Crl.) 352**, which followed the judgment of the Hon'ble Supreme Court in the case of **State of Rajasthan Vs. Aruna Devi** reported in **(1995) 1 SCC 1**.

13.In view of the above, I find absolutely no reason to transfer the investigation and this petition has been filed with *mala fide* intention for roping those innocent persons in the unfortunate hit and run case. However, as I mentioned above, the 3rd respondent herein must keep the file live and must do further investigation at any time, if any clue is found or made available in future.



14.With the aforesaid direction, this petition stands dismissed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

WEB COPY

/ /2021

Sub Assistant Registrar(CS)

mm

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 Superintendent of Police,
Dindigul District.
- 2.The Deputy Superintendent of Police,
CBCID, Dindigul District.
- 3.The Inspector of Police,
Dhandikombu Police Station,
Dindigul.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.8432 of 2021
22.10.2021

MGJ/JC (08.11.2021) 4P 5C