



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 15.06.2021

DATE ON WHICH PRONOUNCED : 25.06.2021

WEB COPY

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P. (MD)No.7775 of 2019

and

Crl.MP(MD)No.4744 of 2019 and 7266 of 2020

Usaikumar

... Petitioner

Vs.

1. The Superintendent of Police,
O/o Superintendent of Police,
Tirunelveli District.
2. The Deputy Superintendent of Police,
D.S.P Officer,
Cheranmahadevi Sub Division,
Tirunelveli District.
3. The Deputy Superintendent of Police,
Crime Branch Crime Investigation Department (C.B.C.I.D),
No.38, Sankar Colony,
Thiruchendur Road,
Palayamkottai, Tirunelveli - 627 002.
4. The Inspector of Police,
Munneerpallam Police Station,
Tirunelveli District.
(Crime No.73/2019)

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to issue a direction to transfer the investigation to the 3rd Respondent office for conducting fair and impartial investigation in Crime No.73 of 2019 on the file of the fourth Respondent.

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

ORDER

This Criminal Original Petition is filed to transfer the investigation to the third Respondent office for conducting fair and impartial investigation in Crime No.73 of 2019 on the file of the fourth Respondent.



2.The case of the petitioner is that the petitioner's son by name, Rajamani was doing mechanical course at PSN Polytechnic College, Melathidiyur, Tirunelveli District. On 26.11.2018, there was some communal disturbance, when the dead body was taken on the street of the petitioner's community by the other community people. In that incident, the above said, Rajamani raised some voices. In respect of which, a police complaint has been given. But, there was no action. The fourth respondent did not take proper steps.

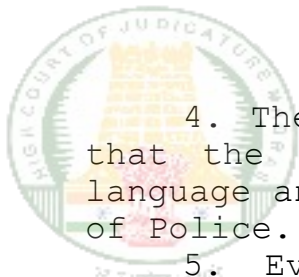
(ii) On 20.05.2019, at about 05.00 p.m, the accused persons namely, Maharajan, Selva Sankar, Selvam @ Thol Porukki, Balu, Sankaralingam, Saravanan and others conspired to murder the above said Rajamani and in pursuance of the same, he was murdered. It was witnessed by one Stephen Raj and Hussian.

(iii). The defacto complainant lodged a complaint with the fourth respondent. In respect of which, a case in Crime No.73 of 2019 for the offences under Sections 147, 148, 341, 294 (B), 506 (II), 302 of IPC 3(1) (r) , 3(1) (s), 3(2) (v) and 3(2) (va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, was registered. The petitioner came to know that the Inspector of Police by name, Mariyappan is the close relative of the accused persons namely ,Saravanan, Balu, Maharajan and Selvam @ Thol Porukki.

(iv). The first respondent has appointed one Mr.Ahsish Rawath, as Deputy Superintendant of Police, who is the second respondent to investigate the matter. He was not well versed in Tamil language. So, he was not in a position to understood the grievance of the petitioner. So, the statement of the witnesses were not properly recorded. On 27.03.2019, the petitioner received summons from the learned Judicial Magistrate No.IV, Tirunelveli that he was directed to appear on 29.03.2019 and later, he was not allowed to give statement. At the instance of the above said Mariyappan, a false information has also been given to the Court. The request made by the petitioner for presenting the C.C. T.V footage, which available in the place of occurrence was not properly preserved by the respondents. As per the Rule 7 (1) of ST/ST (POA) Act, 2016, the Investigation Officer, should be not less than the rank of Deputy Superintendant of Police. As per Section 4 (2) (d) of the Act, the Investigation Officer must recorded the submission of the witnesses and victims. But, those things were not properly complied.

(v) So, on 11.03.2019, he sent a representation to the first respondent for appointing Neutral and Efficient Investigation Officer since the second respondent has not properly conducted the investigation and he was heavily influenced by the above said Mariyappan, so, this petition is filed, seeking a direction to transfer the investigation from the file of the second respondent to the third respondent.

3. Heard both sides.



4. The grievance that has been expressed by the petitioner is that the second respondent herein, is not well versed in Tamil language and he was also influenced by the Mariyappan, the Inspector of Police.

5. Even though, serious allegation has been made against Mariyappan, no material has been brought on record by the petitioner to show that he is deeply involved in the act of screening the offender and helping them. Mere bald allegations cannot be taken into account, at this stage. Moreover, for transferring the investigation, a strong case should be made out by the petitioner and as mentioned earlier, except this ground, no other strong ground has been made. So, with regard to the allegation that Mariyappan is making influence, as mentioned earlier, there is no material on record.

6. The learned counsel for the second respondent would contend that the second respondent is not well versed in Tamil language and so, he was not recorded the statement of witnesses properly and also material on record. It appears that the petitioner is entertaining baseless doubts and suspicious against the second respondent. The letter has been addressed by the first petitioner to the Registry stating that sofar 56 witnesses have been examined. He made a request to list this matter for early disposal since the crime is of the year 2019 and one year 10 months have been lapsed. Because of the interim stay order passed by this Court, they were not in a position to file final report and he has also been pointed out that it is a sensitive matter involving two community people.

7. When we read this letter, the background of the allegation that has been made by the petitioner, so, I am not convinced that the second respondent is not acting with utmost care and sensitivity.

8. I am of the considered view that the justice will be met, if the second respondent is directed to complete the investigation under the direct supervision of the first respondent within three months from the date of receipt of copy of this order. So, this will meet ends of justice.

9. After pronouncing the order, the learned counsel for the petitioner would submit that the *de-novo* investigation must be undertaken by the second respondent. But, such a request cannot be considered at this stage and as mentioned earlier 56 witnesses have been examined sofar. I find no justification or reason for accepting this request. So, this request made by the learned counsel for the petitioner is rejected.

10. In view of the above, the second respondent is directed to complete the investigation under the direct supervision of the first respondent within three months from the date of receipt of copy of this order and file final report before the concerned Judicial Magistrate.



11. With the above direction, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS II)

// True Copy //

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Sub Assistant Registrar (CS)

dss

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,
O/o Superintendent of Police,
Tirunelveli District.
2. The Deputy Superintendent of Police,
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4. The Inspector of Police,
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5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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RC (03.08.2021) 4P-6C

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