



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 02.08.2021

Delivered On : 23.09.2021

CORAM

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

Crl.O.P. (MD)No.8981 of 2020

and

Crl.M.P. (MD)No.4224 of 2020

Malar

... Petitioner

vs.

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

2.The Superintendent of Police,
Thanjavur, Thanjavur District.

3.The Inspector of Police,
Kallaperambur Police Station,
Thanjavur District.
(Crime No.300 of 2020)

4.The Joint Director,
Central Bureau of Investigation (C.B.I.)
Rajaji Bhavan,
Chennai - 600 090.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to transfer the investigation to the fourth respondent office for conducting fair and impartial investigation in Crime No.300 of 2020 on the file of the third respondent.

For Petitioner : Mr.R.Karunanidhi
For R1 to R3 : Mr.R.M.Anbunithi
Additional Public Prosecutor
For R4 : Mr.S.Vijayan

ORDER

This Criminal Original Petition is filed seeking a direction to re-investigation in to the death of Mr. Ramesh on 03.10.2018 by a competent agency in special S.C No. 10 of 2019 on the file of the Special Court PC Act Cases Sivagangai.



2.The facts, in brief, are as follows:-

The petitioner is the wife of the deceased Mani. They belonged to Hindu Kuravar Community. He was doing labour work. The deceased Mani was searched by Vallam Police Station and Thanjavur Medical College Police Station and frequently visit the house and enquired about the whereabouts of the deceased. On 22.05.2020, the police attached to Thanjavur Tamil University arrested her son, viz., Ranjith and he was tortured in the police station and thereafter, he was remanded to judicial custody. On 09.06.2020, at about 7.00 pm., more than ten known and identifiable police persons came to her house and searched her husband. They want the petitioner to tell her husband to surrender in the University Police Station immediately. On 10.06.2020 also around 7.00 am., ten police persons came from the Tamil University Police Station and enquired. She informed them that he went to his relative's home, called Paramasivam. The team went to Paramasivam house and the petitioner has also followed them. They found the deceased Mani was talking with one Selvam and Sathish. The police team started beating with lathi. At that time, one Chandrasekaran, Sub Inspector of Police, took a bill hook and assaulted her husband. So, the deceased ran away from the spot and the police persons chased him. They also arrested Selvam and Sathish. At about 9.00 am., on the same day, around eighty (80) police persons came to the locality and searched her husband. So, the petitioner also made a search and she was informed by her relative, namely, Vengatesan that the deceased came few hours ago and also informed about the physical torture made by the police and he was also informed that Mani left from his house. So, along with above said Vengatesan, she also starting searching him. Around 1.40 pm., she found that the deceased died by hanging with his lungi in Peivari River Bed and his foot was found rested on the ground. The information was given to others and the officials also came to the spot. During the Revenue Divisional Officer enquiry also, she gave a statement that the police officers tortured. The information furnished was also properly registered, the case was registered under Section 174 Cr.P.C. as a suspicious death, in Crime No.300 of 2020, on 10.06.2021. A detailed representation was sent on 16.06.2020, to the respondents and Higher Officials, seeking investigation by CBI Wing. Proper procedures was not followed by the police in the process of investigation, the body was not handed over to the *post mortem* with a view to hide the evidence, during *post mortem*, *antemortem* injuries were found on the body of the deceased, it was not properly enquired. In spite of repeated complaints, no proper action has been taken. So, this petition is filed, seeking transfer of investigation from the file of the third respondent to some other agency or to the fourth respondent as the case may be.

3.A detailed counter was filed by the third respondent, which was adopted by the first and second respondents. Even though the

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4. On

5. It is the case of allegation of police torture and the consequential death. It is admitted by the petitioner to the effect that the deceased was implicated in number of cases, when the learned Additional Public Prosecutor, has also circulated a list of cases, in which the deceased was involved. But, the petitioner, would submit that all the cases has been foisted upon the deceased illegally. In the first argument that has been advanced by the learned counsel for the petitioner submitted that since because of the deceased belonged to Kuravar Community, repeated cases have been foisted upon the deceased. But, I am of the considered view that this Court going by the records, the allegation that has been made by the State, to the effect that false cases have been foisted upon the deceased is not correct. Whether those cases are false or not cannot, be discussed in the matter. The petitioner can not take advantage on his Community background. In respect of crime, the Community back ground or Community Status has no role to play, is not influenced the mind of the Court and as well as the Investigating Officer. So, without being influenced by the Community back-ground of the deceased, we have to discuss the matter on merits.

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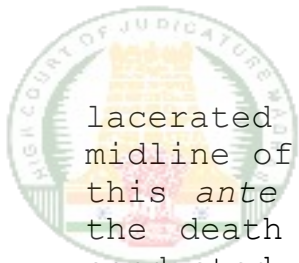
The veracity of those actual aspects cannot be discussed in this petition. Suffice to say that some quarrel between the deceased and the police, when police tried to apprehend the deceased and in that process, one Gowtham was injured.

7. Later, he was found dead by hanging in a Tree, called as Punga Tree. But, without going into the dispute, in the factual aspects, I will straightaway go the *post mortem* report for the purpose of finding out whether the strong case has been made out for transfer of investigation. The respondents say that it is a suicide by hanging. The petitioner state that it is a murder. Before we go into the *post mortem* report, the occurrence took place at that time, must also be kept in mind. Soon after the finding of body of the deceased in a hanging position, the police officials and Revenue officials and others came to this spot, body was about to be moved to the Government Hospital for *post mortem*. As stated in the petition, the body was found at about 1.30 pm., on 10.06.2020, the petitioner and her relatives made a protest and the protest continued even in front of the Government Hospital, where the *post mortem* about to be conducted. In the meantime, a request for *post mortem* was made on 11.06.2020, at about 3.25 pm., since, the relatives of the deceased protested. According to the respondents, they were not in a position to hand over the body to *post mortem* immediately. So, there was a delay. After some pacification, the *post mortem* was conducted at 03.35 pm., on 12.06.2020. At this juncture, the petitioner would say that purposely the police delayed in handing over the body to the *post mortem*, with a view to hide the evidence. But, this allegation is found to be unfounded, if we go through the entire CD file. So, only because of the trouble made by the relatives of the petitioner, there was a delay in sending the body to the *post mortem*. In the meantime, inquest was also undertaken by the Inspector of Police. The fact that the body was not immediately handed over for *post mortem*, after request made on 11.06.2020 is also been noted by the Medical Officer.

8. At the time of *post mortem*, the body was found to be decomposed and features were also noted. The following *antemortem* injuries were found :

"The ligature mark was seen on the back and both sides of the neck and was directed obliquely forwards towards the position of the knot over the front of the neck."

9. No other external or internal *antemortem* injuries were found over the body. The inner parts were sent for chemical analysis and it shows that presence of Ethyl Alcohol in the stomach, intestine, liver, kidney and blood also and the final finding was that death occurred due to hanging. Now, the allegation of the petitioner is that the presence of the *antemortem* injuries clearly show that it is a clear case of murder by the Police Officials. More particularly, the counsel for the petitioner concentrated on the vertical



lacerated injury measuring 3.8 cm X 1 Cm X 2 cm over back of midline of upper part of abdomen. So, according to the petitioner, this *ante mortem* injury clearly shows that he was assaulted before the death and was hanged. But, the opinion of the Doctor, who conducted *post mortem*, is to the effect that this injury would have been caused while the deceased was climbing upon the Tree before death for committing suicide. According to the Doctor, since the edges of the wound are irregular in nature, it would have not been caused by a sharp weapon, would have been caused only by the Tree branches. So, I find the reasons given by the Doctor is absolutely reliable and there is no basis for doubt in the opinion given by the Doctor. So, when the edges are irregular in nature, it was not caused by the sharp edge weapon. The other injuries found on in the neck portion, he was a ligature abrasion of the size 22 cm X 5 cm. So, the first injury would have been caused because of the hanging as per the the Doctor opinion.

10.The learned counsel for the petitioner next would contend that the hyoid bone was found to be intact. So, it was absolutely no possibility for suicide by hanging. but, the opinion of the Doctor is to the effect that the death was caused due to the hanging. Whether any ground to suspect opinion given by the Doctor, the entire decision is rested.

11. The next argument is that the foot of the deceased was found rested on the floor. So, according to the petitioner, if really there was a hanging, there was no possibility put to the rested on the floor. The Assistant Director of Mobile Forensic Science Laboratory, District Police Office, Thanjavur, has visited the place of occurrence, soon after the intimation on 10.06.2020, at about 6.45 pm., he also took photographs of the deceased. So, among the findings the following findings are important.

12. The hands were appeared in clan shed stage, which is correspondence to photograph No.4. The head was found tilted opposite to the neck, which is corresponding to photographs Nos.2 and 3. The eyes were found wide open, which is corresponding to photograph No.9. Contusion was found on the inner side of the lower lip, which is corresponding to photograph No.10. The broad, in complete and oblique ligature mark was found on the neck, which is corresponding to photograph Nos.11 and 12. The ligature mark was found on the upper region of the neck in between the chin and larynx, Squeeze of the skin found on the ligature mark, which is corresponding to Photograph Nos.11 and 12. According to the prosecution, these are the vital signs to show that it is a clear case of suicide. When we compare the Forensic Science Laboratory Expert and *post mortem* report, we find that many of them tally.

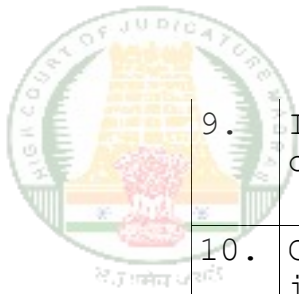
13.Let us straightaway go to the comparative chart of chart given in a Text book of Medical Jurisprudent and Toxicology, By

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Jaising P.Modi, Published by LexisNexis company in page No.524, the difference between Hanging and Strangulation:-

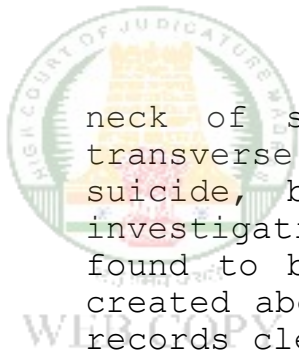
	Hanging	Strangulation
1.	Mostly suicidal	Mostly homicidal
2.	Face - Usually pale and petechiae rare	Face - Congested, livid and marked with petechiae
3.	Saliva - Dribbling out of the mouth down on the chin and chest	Salvia - No such dribbling
4.	Neck - Stretched and elongated in fresh bodies	Neck - Not so
5.	External signs of asphyxia, usually not well marked	External signs of asphyxia, very well marked (minimal if death due to vasovagal and carotid sinus effect)
6.	Ligature mark - Oblique , non-continuous placed high up in the neck between the chin and the larynx, the base of the groove or furrow being hard, yellow and parchment - like	Ligature mark - Horizontal or transverse continuous, round the neck, low down in the neck below the thyroid, the base of the groove or furrow being soft and reddish
7.	Abrasions and ecchymoses round about the edges of the ligature mark, rare.	Abrasions and ecchymoses round about the edges of the ligature mark, common
8.	Subcutaneous tissues under the mark - white, hard and glistening	Subcutaneous tissues under the mark - Exxhymosed



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9.	Injury to the muscles of the neck - Rare	Injury to the muscles of the neck-Common
10.	Carotid arteries, internal coats ruptured in violent cases of a long drop	Carotid arteries, internal coats ordinarily ruptured
11.	Fracture of the larynx and trachea - Very rare and may be found that too in judicial hanging.	Fracture of the larynx trachea and hyoid bone
12.	Fracture - dislocation of the cervical vertebrae - Common in judicial hanging	Fracture - dislocation of the cervical vertebrae - Rare
13.	Scratches, abrasions and bruises on the face, neck and other parts of the body - Usually not present	Scratches, abrasions fingernail marks and bruises on the face, neck and other parts of the body - Usually present.
14.	No evidence of sexual assault	Sometimes evidence of sexual assault
15.	Emphysematous bullae on the surface of the lungs - May be present	Emphysematous bullae on the surface of the lungs - Not present

14. When we compare to the chart of difference between Hanging and Strangulation, that has been in the *post mortem* report: More particularly, the ligature mark, there is an indication about the cause of death. In case of hanging, the ligature marked by oblique non continuous, but, whereas, in the case of Strangulation, the ligature marked by horizontal or transverse continuous, round the neck, whereas, in Strangulation, the fracture of the larynx trachea and hyoid bone will be noted, whereas, in hanging, it was always show one in judicial hanging, can be found out. But, however, in hanging, the fracture dislocation of the cervical vertebrae is common in judicial hanging, whereas, in Strangulation, fracture dislocation of the cervical vertebrae is rare. We need not concentrate much of this controversy. Now, it is suffice to say that the Hyoid bone was found intact. So, another important feature is the ligature marking, it was oblique horizontal, but, whereas,



neck of strangulation as mentioned above it is horizontal and transverse. The second indication to show that it is a case of suicide, by hanging. Apart from this medical examination, the investigation undertaken by the Deputy Superintendent of Police also found to be unbiased in nature. Even though much doubt has been created about the honesty of the investigation officer, the medical records clearly shows that it is a case of suicide and not a case of Strangulation and not even a case of murder, before death.

15. So, I find that absolutely there is no merit in this matter for warranting to transfer of investigation. This Criminal Original Petition deserves to be dismissed and accordingly, the same is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

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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,
D.G.P. Office, Mylapore,
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5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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