



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.08.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGOVAN**

Crl.O.P.(MD)No.10646 of 2021

Fathima Parsana

... Petitioner

Vs.

1.The Superintendent of Police (CBCID)
Office of the Superintendent of Police,
Chennai.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City.

3.The Inspector of Police,
SS Colony Police Station,
Madurai City,
In Crime No.554 of 2021.

4.The Inspector of Police (CBCID),
(CBCID) Office,
Madurai.

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to change the investigation agency from the third respondent to the fourth respondent in respect of Crime No.554 of 2021 dated 20.06.2021 pending before the third respondent and also direct the 1st respondent to appoint competent Investigating Officer to do the investigation of the case and file the final report.

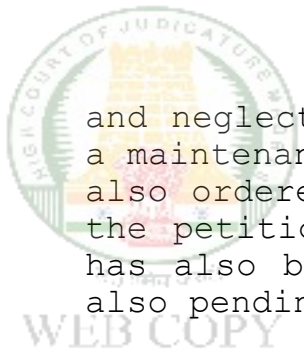
For Petitioner : Mr.D.S.Haroon Rasheed

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking transfer of investigation from the file of the third respondent to the file of the fourth respondent.

2. The case of the prosecution is that the petitioner got married one Praveen Kumar in the year 2004 which is an inter-religious marriage. Out of wedlock, she got two children. The above said Praveen Kumar had an illegal intimacy with some other person



and neglected the petitioner and the children. Therefore, she filed a maintenance case before the Family Court, Madurai and the same was also ordered. But, the said Praveen Kumar did not pay any amount to the petitioner as well as the children. The Domestic Violence case has also been registered against the petitioner's husband which is also pending trial before the Additional Mahila Court, Madurai.

3. When the matter is pending, the said Praveen Kumar threatened the petitioner to withdraw the case and it was refused by the petitioner. So, he lodged a complaint before Anna Nagar Police Station. In the meantime, the third respondent took the petitioner as well as the minor children under the guise of enquiry and they were also assaulted by the third respondent.

4. Against the illegal detention, she made a complaint before the Tamil Nadu State Human Rights Commission against the Inspector of Police and other police officials. It was taken on file in Case No.5942 of 2020 and it is pending for enquiry. Since the complaint has been filed against them, the police officials are having vengeance against the petitioner and her children.

5. While being so, on 19.06.2021, one Subramani took the petitioner's minor son for his family function. But he did not return to home. So, on 20.06.2021, she was about to give a complaint. At that time, one Sundar, who is the friend of Praveen Kumar, has criminally intimidated the petitioner stating that her son is lying dead on the road. If the petitioner approached the Court, the same will happen to her also. The petitioner intimated the same to the third respondent, but, there was no action taken by the third respondent. Later, the third respondent obtained the signature of the petitioner under threat. Only on that basis, the body of the petitioner's son was handed over. Thereafter, a case in Crime No.554 of 2021 has been registered for the offence under Sections 120B, 147, 364, 323, 307, 302 and 506(i) IPC against 11 accused persons, in which, the petitioner's husband arrayed as accused No.11. Only based on the instruction given by the said Praveen Kumar, all other accused involved and murdered the petitioner's son.

6. After coming to know about the case which has been registered against the said Praveen Kumar, he has criminally intimidated the petitioner to withdraw the complaint. Further, the third respondent is falsely spreading a message to the effect that the petitioner's minor son has also involved in a theft case. But, no case has been registered against him. Under these circumstances, the petitioner apprehends that if the investigation is conducted by the third respondent, it may not be fair investigation. On that ground, she seeks transfer of investigation in Crime No.554 of 2021 from the file of the third respondent to the fourth respondent.



7. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

8. It is an unfortunate complaint that because of the family dispute between the husband and wife, her son aged about 15 years, have been done to death by the accused at the hiring by him. It is the allegation on the side of the petitioner. For the purpose of knowing the manner of investigation as well as the stage, the CD file has been called for.

9. In the status report, it has been mentioned that totally, there are sixteen accused. So far, 29 witnesses have been examined. From the confession statement of the accused persons, it came to light that the said Praveen Kumar is not involved in the occurrence. He was arrested in Crime No.37 of 2016 and detained in central prison from 18.07.2018. The CDR did not show any communication between the said PraveenKumar and the other accused persons. The occurrence took place only because of assault made by the friends of the deceased upon Murugan who is the father of the first accused. Due to the above said incident, Syed Esha, the son of the petitioner has been kidnapped and done to death. Hence, the said PraveenKumar is no way involved in this matter. Further, in this case, investigation has been completed on 27.07.2021 and the Draft Charge Sheet has also been given to the Director of Public Prosecution.

10. On perusal of the CD file, it shows that the Investigating Officer has not exhibited any bias against this petitioner because of her complaint against him before the State Human Rights Commission. Hence, the third respondent has come to the conclusion that the said Praveen Kumar is no way involved in this case. Since investigation is completed and the final report is also made ready, it may not be possible at this point of time to transfer the investigation. Hence, this Court is not inclined to transfer the investigation. Accordingly, the Criminal Original Petition stands dismissed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ssb

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.

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



To

- 1.The Superintendent of Police (CBCID)
Office of the Superintendent of Police,
Chennai.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City.
- 3.The Inspector of Police,
SS Colony Police Station,
Madurai City,
In Crime No.554 of 2021.
- 4.The Inspector of Police (CBCID),
(CBCID) Office,
Madurai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD) No.10646 of 2021
13.08.2021

RK (29.09.2021) 4P 6C