



WEB COPY



W.P.No.19097 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.19097 of 2022

M.Dhandapani

... Petitioner

Versus

1.The Inspector of Police,
B1 Police Station, Dharmapuri,
Dharmapuri District.
(Cr.No.799/2019).

2.The Superintendent of Police,
(Special Crime Branch),
Central Bureau of Investigation (CBI),
Rajaji Bhavan, Beasant Nagar,
Chennai.

3.The Inspector of Police,
CBI/ACB/Chennai,
Rajaji Bhavan,
Besant Nagar, Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ, Order or Direction in the nature of Writ of Mandamus, directing the second and third respondents to transfer the case registered in Cr.No.799/2019 under sec.279, 304(A) on the file of the first respondent to any other independent agency more particularly the Central Bureau of Investigation (CBI) and consequently direct the first and second respondents (CBI) to conduct fresh investigation of the case registered in Cr.No.799/2019 under sec.279, 304(A) on the file of the first respondent.



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For Petitioner : Mr.R.Chandrasekaran
For R1 : Mr.L.Bhaskaran,
Government Advocate (Crl. Side)
For R2 & R3 : Mr.K.Srinivasan,
Special Public Prosecutor for CBI Cases

ORDER

This Writ Petition has been filed to direct the respondents 2 and 3 to transfer the case registered in Crime No.799 of 2019, for offence under Sections 279 & 304(A) of IPC, on the file of the 1st respondent to any other independent agency more particularly the Central Bureau of Investigation (CBI) and consequently, direct the respondents 2 and 3 to conduct fresh investigation.

2.The learned counsel for the petitioner submitted that D.Vinothkumar (Hereinafter referred to as 'Deceased') is the younger son of the petitioner, who was a Post Graduate in Master of Architecture. He studied Bachelor of Architecture in Adhiyaman Engineering College, Hosur and thereafter, he joined a private company at Bangalore. He further submitted that one Bharathi, daughter of Natarajamurthy belongs to S.Kaikatti Puthur village, came to be introduced to his younger son/deceased through matrimonial website on coming to know about his educational



qualification and employment. The said Bharathi used to visit the petitioner's younger son/deceased in his residence at Bangalore along with her mother by name Lakshmi. During that period, their relationship was developed further, on the strength of the same, the said Bharathi and his mother Lakshmi stayed in the deceased room. Thereafter, the deceased presented diamond stud as token of love and affection. As a result, they decided to get married. The petitioner and his wife, as father and mother, were forced to accept the marriage and accordingly, the marriage took place on 12.12.2013 in Arulmighu Mundhi Vinayagar Temple at Puliyakulam, Coimbatore. After the marriage, both of them lived separately at Bangalore, out of their wedlock, they were blessed with a female child. Thereafter, the deceased pursued his Post Graduate Degree (Master of Architecture) in Bharathiar University, Coimbatore and completed the same successfully.

3.He further submitted that after the studies, the deceased started business in the name and style of M/s.Vinoth Architect and established office at No.12, Ramasamy Road, R.S Puram, Coimbatore along with his friend by name Hari. Both of them, agreed to share equally the profit earned out of the said business. In view of the business relationship, the said Hari used to visit



the deceased frequently at his house and slowly developed friendship with his wife Bharathi. Later, they developed illegal intimacy, which was objected by the deceased. Due to which, the deceased wound up his business and snapped his relationship with Hari and got employment as Professor in R.V.S College, Coimbatore. Thereafter, he was also instructed to act as External Examiner at Meccans School of Architecture College in the year 2019. On 03.12.2019 & 04.12.2019, he attended the said duty. After attending duty of External Examiner, the deceased had gone to Bangalore along with his former business partner Hari, stayed there with other friends by name Mahendran and Michael. Thereafter, the deceased proceeded with the said Hari on 10.12.2019, at about 07.30 a.m., from Bangalore by two wheeler Royal Enfield bearing registration No.TN 59 AT 8605 and travelled via Dharmapuri to Salem National Highway. On the way, they took lunch at Krishnagiri and proceeded to travel in Salem National Highway. During that time, the said Hari informed the petitioner's elder son Yuvaraj that the two wheeler driven by the deceased dashed against the help line advertisement board erected at the downward of the bridge near L & T parking bay and sustained injuries. Believing the same, the petitioner's elder son Yuvaraj informed the same to the 1st respondent Police and a case in Crime No.799 of 2019 got registered.



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Later, it was found that the statement given by the said Hari was false. There was motive between the said Hari and the deceased and further, the estranged wife of the deceased Bharathi was continuing her relationship with Hari, for this reason, the deceased Vinothkumar was done away and projected it is an accident. The petitioner, on collecting information near the scene of occurrence, found that a vehicle from behind dashed the petitioner's son/deceased bike and caused the accident, due to which, the deceased died on the spot. It is also to be seen that the deceased was using the mobile which can be unlocked on eye contact. That being so, how such mobile phone was unlocked and made operational is not known. It is also seen that after two hours from the accident, the deceased was lying injured near the spot and thereafter, the ambulance came and took him to the Government Hospital, Dharmapuri, where he was pronounced dead within few minutes.

4.The learned counsel further submitted that on coming to know about the death of the deceased, neither the said Bharathi nor her family members attended the funeral or any other connected ceremonies of the deceased. Thus, Bharathi estranged wife of the deceased was having continuous illegal relationship with Hari and done away the deceased. During



investigation, the 1st respondent Police failed to collect the Call Detail Records of Bharathi and Hari and did not collect the CCTV recordings available near the scene of occurrence. Except one eye witness, all other persons examined, are only hearsay witnesses. Thus, the 1st respondent, without conducting proper investigation, closed the FIR as Further Action Dropped.

5.The petitioner, by way of protest, sent representations providing all details of Bharathi and Hari, their mobile numbers and other particulars, despite the same, the 1st respondent Police failed to consider the same and intended to close the case. Hence, he filed this Writ Petition seeking transfer of investigation.

6.The learned Additional Public Prosecutor appearing for the 1st respondent filed counter and submitted that on 11.12.2019, at about 07.00 p.m., when V.R.Annadurai, Special Sub-Inspector of Police was on duty, he received the complaint from Yuvaraj/brother of the deceased about the motor vehicle accidental demise of his brother Vinothkumar/deceased occurred on 10.12.2019, at about 02.15 p.m., near L & T parking bay in Krishnagiri-



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Salem National Highways, thereby hitting against the help line post while he was riding his motor cycle bearing registration No.TN 59 AT 8605. It is submitted that the then Inspector of Police C.M.Rathinakumar took up investigation, examined 13 witnesses, collected 7 documents and 1 material object. On analysing the statements of witnesses, collected documents and material objects, he came to subjective satisfaction concluding that it is case of self fall without any third party or third object intervention and thereby prepared the report based on the examination of concerned including the complainant.

7.He further submitted that the Investigating Officer, during course of investigation, considered all aspects including 3rd person intervention and found that there was nothing suspicious and fishy about any third person involvement in the accident and for the injuries found on the deceased. It was unambiguous and clear case of self hit and fall by the deceased due to imbalance while driving his two wheeler at the accident spot, which is clearly spoken by the eye witnesses present therein. It is submitted that the allegation of the petitioner attributing the incident as an homicidal at the instance of Bharathi, his daughter in law and wife of the deceased, totally



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false and motivated. The accident do not bear any direct or indirect 3rd person intervention especially the petitioner's daughter in law. It is submitted that the incident occurred on a broad day light at about 02.15 p.m., on the busiest national high ways road. The deceased's self hit on the helpline pillar was witnessed by the persons near the scene of occurrence and they have clearly spoken about the occurrence as to self hit and fall. The statement of witnesses cannot be doubted as they are independent and uninterested witnesses.

8.He further submitted that the petitioner referred to a person is Harikrishnan @ Hari, who is an ambulance medical attendant, who took the deceased from the scene of occurrence to the Government Hospital, Dharmapuri. Since he brought the injured to the hospital for admission, it is natural and required that his name finds place in the Accident Register. In order to mislead, the petitioner mischievously draws reference from this entry. His allegation that the deceased was murdered at the instance of his wife Bharathi palpably cast aspersions, without any iota of material. It is submitted that the Investigation Officer of this case having nothing to comment upon the rest of the allegations of the petitioner as to Bharathi's



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conduct with Vinothkumar family as those are not the issue for investigation by the Investigating Officer. However, it is submitted that the aspersions thrown on the Investigation Officer and other Police officers are totally false. He further submitted that the real reason for the death of the petitioner's son Vinothkumar was clearly investigated in an unbiased manner. The Investigation was conducted in the manner known to law.

9.The wild allegations against the investigation is without any materials and there is no reason or necessity to doubt the investigation. Both the petitioner and the persons accused off are total strangers. Under no stretch of imagination, allegation of favouritism to any extent can be attributed. Hence the petitioner's petition are bereft of merits and liable to be dismissed.

10.This Court considered the rival submissions and perused the materials available on record and the Case Diary in Crime No.799 of 2019.

11.It is seen that the petitioner's elder son Yuvaraj lodged the



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complaint to the 1st respondent Police and FIR in Crime No.799 of 2019, for offence under Sections 279 & 304(A) of IPC was registered. Admittedly, Yuvaraj is not an eye witness to the occurrence. He was informed about the accident and his brother admitted in the Government Hospital, Dharmauri by Hari. Thereafter, Yuvaraj went to the hospital and on coming to know about his brother's death, he lodged the above said complaint. On receipt of the complaint, the Sub Inspector of Police one V.R.Annadurai registered FIR in Crime No.799 of 2019, for offence under Sections 279 and 304(A) IPC, took up investigation, visited the scene of occurrence, conducted inquest in presence of Rajapragadheeswaran, Kaleeswaran, Aravindhkumar and Velmurugan on the same day. None of them are eye witness and present in the scene of occurrence.

12.From the inquest report, there is no material to show how the panchayathars arrived at the reason for the death of Vinothkumar. The Panchayat itself appears to be a more formality. On 11.12.2019, the statement of defacto complainant Yuvaraj Pandiyan (brother of the deceased), Bharathi (wife of the deceased), Dhandapani & Vijaya (parents of the deceased) and Vishnu (brother of Bharathi) and Ravi and Venkatesan were



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examined. The said Ravi and Venkatesan are shown as witnesses to the Observation Mahazar and Rough Sketch. From the Observation Mahazar and Rough Sketch, nothing could be deciphered or seen about the manner in which the accident had taken place. On 12.12.2019, one Chinnasamy and Harikrishnan @ Hari were examined. The said Chinnasamy stated that he was working as House Keeping in L & T Parking Bay, on 10.12.2019, at about 02.15 p.m., when he was filling water, he saw the bike coming in rash and negligent manner in Krishnagiri-Salem highway and the biker was suddenly lost balance and dashed against the helpline board. Due to which, the concrete angle supporting the helpline board fall on the rider of the bike, who sustained injuries all over the body. He further stated that 108 Ambulance came there and took the injured to Government Hospital, Dharmapuri. Thereafter, the relatives of the deceased came to the scene of occurrence and visited the spot. In this case, the said Chinnasamy is the only eye witness to the alleged accident. The other person examined is Harikrishnan @ Hari, who is an ambulance driver. He stated about receiving information about the accident and he went to the spot, where he was informed that due to collusion of the bike on the helpline board, the concrete angle fall on the rider of the bike. He further stated that the deceased was



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taken to the Government Hospital, Dharmapuri, where the deceased was identified as Vinothkumar by his identify card and the same is recorded in the Accident Register.

13.The next investigation was on 27.02.2020. On which day, A.Rajamani, Motor Vehicle Inspector; Dr.Prabhavathy, Casualty Doctor; Dr.Sathish Kumar, Postmortem Doctor; Murali, Grade-I Constable (Body Incharge) and V.R.Annadurai, Special Sub Inspector of Police were examined. On the same day, the investigating officer completed the investigation and closed the case as Further Action Dropped without proper reasoning.

14.From the closure report, the reason for the closure of the case is that the deceased Vinothkumar had caused the accident on his own and it is a self fall. Due to which, the deceased sustained injuries and succumbed to death. The Postmortem Doctor's opinion is that '*the cause of death is due to shock and haemorrhage multiple injuries as a result of blunt force trauma.*' From the statement of witnesses, it is seen that except for one witness namely Chinnasamy, none had seen the accident. The witnesses for Observation



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Mahazar and Rough Sketch not stated about breaking of concrete angle supporting the helpline board. Further, nothing is recorded in any documents.

The defacto complainant Yuvaraj Pandiyan stated that he was informed about the accident by one Hari and thereafter, he lodged the complaint. The other witnesses examined by the investigating officer are all hearsay witnesses. The Motor Vehicle Inspector in his report opined that the silencer and pillion handle are damaged with bend and no CCTV recordings collected and no reason given, which causes some doubt about the manner in which the accident had taken place. From the Postmortem report, it is found that the stomach contains 100 grams of partially digested food particles. The said Hari, the erstwhile business partner informed Yuvaraj Pandiyan that after having lunch, the deceased left the place and shortly the accident took place. Hence, the said Hari is the person, who saw the deceased lastly.

15.The case projected by the eye witness is that the concrete angle supporting helpline board fell on the deceased, which is not in conformity with the Postmortem certificate issued by Dr.Sathish Kumar. There is no injury on the head and neck on the body of the deceased. The entire injuries seems to be on the ribs of the deceased. Added to it, the petitioner raised



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doubt on his daughter-in-law Bharathi and Hari, who had strained relationship with Vinothkumar. The Investigating Officer conducted investigation only for three days (11.12.2019, 12.12.2019 & 27.02.2020) and closed the case as Further Action Dropped. He did not conduct any investigation with regard to the complaint and the apprehension made by the petitioner and with regard to collection of CCTV recordings. The injuries found in the postmortem certificate are not in consensus with the manner in which the accident is projected. There were lot of infirmities in the investigation conducted by the Police. Now, the petitioner has lost his well educated son.

16.It would have been appropriate that the Inspector of Police ought to have conducted a detailed investigation. On the other hand, the Special Sub Inspector of Police received the complaint, enquired the witnesses and closed the case as Further Action Dropped. This clearly shows that the investigation has not been conducted in the manner it ought to be done as contemplated under law. More so, when specific complaint made against Bharathi, her family members and the prime suspect Hari, why no investigation conducted with them is not known and there is no answer for it. Duty is cast upon the investigating agency to verify the veracity of the



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complaint and to find out the truthfulness or otherwise. In this case, no such exercise has been done.

17.In view of the above, this Court quashes the closure report, dated 27.02.2020 filed by the 1st respondent as Further Action Dropped and directs the Deputy Superintendent of Police, Dharmapuri to conduct further investigation by considering the petitioner's representation, enquire and collect documents including call details records of suspects, more specifically Hari, who is the erstwhile partner of the deceased Vinothkumar and last seen the deceased. This Court also directs the Superintendent of Police, Krishnagiri to monitor the investigation conducted by the Deputy Superintendent of Police, Krishnagiri.

18.Since the case is of the year 2019, it would be appropriate that the Deputy Superintendent of Police, Dharmapuri to give preference and conclude the investigation on priority without much delay. It is made clear that the defacto complainant to be informed about the progress and outcome of the investigation.



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19. With the above directions, this Writ Petition is disposed of. No

costs.

22.11.2022

Index : Yes/No

Internet: Yes/No

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Note: Issue Order Copy on 13.12.2022.

To

1. The Superintendent of Police,
(Special Crime Branch),
Central Bureau of Investigation (CBI),
Rajaji Bhavan, Beasant Nagar,
Chennai.

2. The Inspector of Police,
CBI/ACB/Chennai,
Rajaji Bhavan,
Besant Nagar, Chennai.

3. The Inspector of Police,
B1 Police Station, Dharmapuri,
Dharmapuri District.

4. The Public Prosecutor,
High Court, Madras.

Copy To:

1. The Superintendent of Police,
Krishnagiri.



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2.The Deputy Superintendent of Police,
Dharmapuri.

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M.NIRMAL KUMAR, J.
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