



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD) No.5262 of 2022

and

Crl.M.P(MD) No.3722 of 2022

Kannadhasan

...Petitioner

Vs.

1.The Director General of Police,
Chennai - 4.

2.The District Collector,
Tirunelveli District,
Tirunelveli.

3.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

4.The Deputy Superintendent of Police,
Ambasamudram, Tirunelveli District,

5. The Inspector of Police,
VK Puram Police Station,
Tirunelveli District.
(Cr.No.82/2022)

6.The Inspector of Police,
CBCID, Tirunelveli.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to transfer the investigation in Cr.No.82/2022 from the file of the fifth respondent police to the sixth respondent police or any other competent police.

For Petitioner : Mr.T.A.Ebenezer

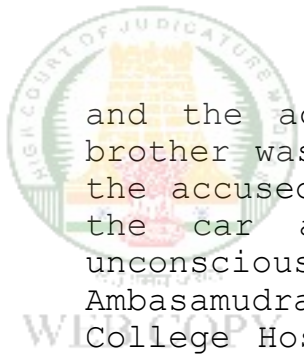
For Respondents : Mr.B.Thanga Aravindh

Government Advocate (Crl.Side)

ORDER

The criminal original petition has been filed seeking to transfer the investigation in Crime No.82 of 2022 from the file of the fifth respondent to the sixth respondent.

2.There was a previous enmity between the petitioner's family



and the accused in respect of election. When the petitioner's brother was returning back near Vembiapuram public toilet in light, the accused persons waylaid him by car and took the wooden log from the car and attacked him to murder. Immediately, he fell unconscious and he was taken to the Government Hospital, Ambasamudram. Thereafter, he was brought to Tirunelveli Medical College Hospital and died on the very next day. On the complaint lodged by the petitioner, the fifth respondent registered the case in crime No.82/2022 for the offence under Section 304 of IPC as culpable homicide not amounting to murder. Infact, one of the eyewitnesses to the occurrence was taken to the custody by the respondents 4 and 5 and he was tortured not to disclose anything, who had seen the occurrence. One another school student was also taken to custody and put him/her into a locked room and tortured not to disclose anything what he/she had seen. Further, one of the witnesses had consumed poison after releasing a video in YouTube saying that he consumed poison due to the torture of the respondents 4 and 5. Though the petitioner made specific allegations as against the accused persons, the fifth respondent registered the case only under Section 304 of IPC.

3.On perusal of the status report filed by the fifth respondent revealed that after registration of FIR, the rough sketch and observation mahazar were prepared in the presence of witnesses Maruthupandi and Nagarajan. After examining the witnesses under Section 161(3) of Cr.P.C, the I.O recorded that it is only culpable homicide amounting to murder. Further in the post-mortem report of the deceased, it is opined that the deceased died due to complications of head injury due to blunt force impact. Further, it is revealed that the statement of the deceased was recorded and he informed the hospital that he met with road accident due to which, he sustained injury. Accordingly, the Doctor treated the deceased and the accident was registered. Though the FIR has been registered as against 9 accused persons and the accused Nos.2, 7 to 9 are not involved in this case, the FIR was altered into Sections 341 and 304 (2) of IPC as against the accused Nos.3 to 6 alone. When the Doctor recorded the accident as that the deceased met with an accident and sustained injury, the fifth respondent ought not to have altered into Sections 341 and 304(2) of IPC.

4.Considering the contradictions between both, if the investigation continues with the file of the fifth respondent, the petitioner will not get fair investigation at the hands of the fifth respondent. Accordingly, the entire investigation in Crime No.82 of 2022 is hereby withdrawn from the file of the fifth respondent and the same is transferred to the file of the sixth respondent for investigation. On receipt of the entire case diary in crime No.82 of 2022, the sixth respondent is directed to complete the investigation and file final report within a period of twelve weeks thereafter.



5.With the above direction, the criminal original petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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/ /2022

Sub Assistant Registrar(CS)

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To

- 1.The Director General of Police,
Chennai - 4.
- 2.The District Collector,
Tirunelveli District,
Tirunelveli.
- 3.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
- 4.The Deputy Superintendent of Police,
Ambasamudram, Tirunelveli District,
5. The Inspector of Police,
VK Puram Police Station,
Tirunelveli District.
- 6.The Inspector of Police,
CBCID, Tirunelveli.
7. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.T.A.Ebenezer, Advocate (SR-18799[F] dated 13/04/2022)

Crl.O.P.(MD) No.5262 of 2022
11.04.2022

SG(CO)

KB(04.05.2022) 3P 9C