



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22/02/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.4966 of 2019

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Rosely : Petitioner

Vs.

1.The Director General of Police,
O/o.Director General of Police,
Chennai.

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

3.The Inspector of Police,
Thisayanvilai Police Station,
Tirunelveli.

4.The Inspector of Police,
CBCID, Tirunelveli.

: Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to direct the 1st respondent to transfer the investigation in Crime No.388 of 2018 on the file of the 3rd respondent to the 4th respondent and order for re-investigation by the 4th respondent and thus render justice.

For Petitioner : Mr.P.T.Ramesh Raja
For Respondents : Mr.SS.Madhavan
Government Advocate (Crl. Side)

O R D E R

This petition has been filed seeking to direct the 1st respondent to transfer the investigation in Crime No.388 of 2018 on the file of the 3rd respondent to the 4th respondent and order for re-investigation by the 4th respondent.

2.The case of the prosecution in brief:-

The petitioner, who is the de-facto complainant has lodged a complaint before the 3rd respondent police with the following allegations:- She had three sons and two daughters. Her 2nd daughter by name Selvakumari was married to one Prabhu on 01.05.2013. At the



time of marriage, she was given 30 sovereigns of gold jewels and Rs.2,00,000/- cash as dowry. After the marriage, she was residing with her husband in the matrimonial home and also working in a private school. After the marriage, there was some sort of dispute between the husband and wife with regard to pledging of jewels by the husband and his family members. On 25/11/2018, after attending a function in the petitioner's son-in-law house, her 2nd daughter was forcibly taken to the matrimonial home by her husband. Thereafter, the petitioner received a phone call from her daughter and at that time, her son-in-law abusing her daughter in obscene words and the phone was disconnected. Thereafter, the petitioner was attempted to call her daughter. But however, she could not contact her. The petitioner received the information that her daughter was admitted in a private hospital at Nagercoil. On 26/11/2018, the petitioner went to the hospital. At that time, she was covered with bed sheet and found that there was a grievous injury on her neck and burn injuries were also found on her both hands. On seeing her son-in-law, she enquired him with regard to the injuries sustained by her daughter, resulting in quarrel between them. Ultimately, the petitioner was threatened by her son-in-law and his friends. On the information by the hospital authorities, the 3rd respondent police visited the hospital and at the time, the petitioner was instructed to give a written complaint. Since the petitioner is an illiterate woman, the police has obtained her signature in blank papers. Thereafter, no action was taken on the side of the police. When the petitioner questioned the police with regard to status of the complaint, the police has informed that they would take action against the offenders only after recovery of the victim from her injuries. On 04/12/2018, it was informed by the hospital authorities that the petitioner's daughter died. After the death of the petitioner's daughter, the Sub Collector, Nagercoil, came to the hospital for enquiry. The petitioner has clearly narrated the entire events to the Sub Collector, which was recorded in the form of writing. Even after the death of the petitioner's daughter, there was no action on the part of the 3rd respondent police as against the offenders. Thereafter, it came to understand that a case in Crime No.388 of 2018 was registered under section 174 Cr.P.C. However, there is progress in the investigation. Hence, the petitioner has filed this petition seeking transfer of the investigation.

3.Heard both sides.

4.The entire CD file has been called for and perused. During the course of argument, the learned counsel appearing for the petitioner would take me through various circumstances as well as the statement of the witnesses that have been recorded during the course of investigation.

5.No doubt that there is some suspicious and doubt with regard to the manner of incident. After the occurrence, it appears that the



hospital and later, she was shifted to the Government hospital. When a burn injury has been suffered by the deceased, it is unbelievable that she was taken in a two wheeler to the private hospital. Similarly, another circumstance creates doubt is that the neighbours have also given statement that they are not aware of the said incident on the particular day of night and the incident came to be noticed only on the next day. When fire accident took place, even as per the case of the husband and family, it is unbelievable that the neighbours did not notice the same. This is the another circumstantial suspicious that has been projected by the petitioner. Since the de-facto complainant heard the screaming voice of the deceased and when he was conversing with him. But this court is in a position to doubt the conduct of the de-facto complainant. He, being the father of the of the deceased, soon after the occurrence ought to have rushed to the house and enquired about the occurrence. But he did not do anything and only after the next day, after receiving the information from the husband of the deceased, he went to the hospital. But the deceased was not in a position to speak. So this also creates doubt with regard to the conduct of the de-facto complainant.

6.As mentioned earlier, the manner of occurrence said to have been taken place, as projected by the prosecution and the witnesses so far also weak and highly unbelievable one. For the purpose of noting the spreading of kerosene in the place of occurrence, parvai mahazar has also prepared. This court is not in a position to find out the traces of kerosene spreading. Even in the postmortem report, we find that no traces of kerosene have been found out. Whatever may be, the Revenue Divisional Officer, during the course of enquiry, found that absolutely there is no torture or harassment by the deceased at the hands of the husband and in-laws. But however, the learned counsel appearing for the petitioner, by relying upon the judgment of the Hon'ble Supreme Court in the case of **State of Karnataka Vs. M.V.Manjunathgowda and another [(2003)2 SCC 188]** and **Kunhiabdulla and another Vs. State of Kerala [(2004)4 SCC 13]**, would submit that soon before the occurrence, the deceased was subjected not only to physical harassment, but also mental harassment. The statement of the de-facto complaint that it is a case of harassment by demand of dowry. But this court is not in a position to appreciate this argument at this stage. It is a matter for further investigation.

7.In the light of the above facts and circumstances and in the light of the above said doubts with regard to the manner of the occurrence, as projected by the prosecution so far, this court is of the considered view that *de novo* investigation must be undertaken by the Deputy Superintendent of Police, Tirunelveli. The file shall be handed over to the Deputy Superintendent of Police, Tirunelveli, immediately and he is directed to take up the investigation afresh and conclude the same within a period of six months from the date of



receipt of the file. The compliance report must be submitted the Registry, after the completion of the investigation. In the light of the above facts and circumstances of the case, the transfer of the investigation to CBCID may not be arise and it is not proper also, since it is a case of matrimonial dispute.

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8. With the above said direction, this criminal original petition stands **allowed**.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

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,
O/o. Director General of Police,
Chennai.
2. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
3. The Deputy Superintendent of Police,
Tirunelveli
4. The Inspector of Police,
Thisayanvilai Police Station,
Tirunelveli.
5. The Inspector of Police,
CBCID, Tirunelveli.



6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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+1 CC to M/s.P.T.RAMESH RAJA, Advocate (SR-7973[F] dated 23/02/2022
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ck(CO)
TR(20.04.2022) 5P 8C