



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.03.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL OP(MD) . No.13988 of 2020

and CrI.M.P.No.6427 of 2020

WEB COPY

Bas Thurai

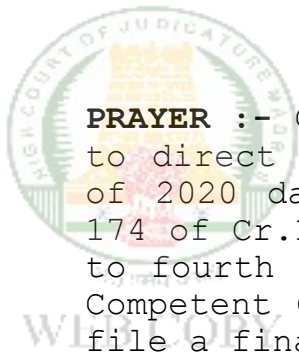
...Petitioner

Vs

- 1.The State of Tamil Nadu
Represented by the
Principal Secretary,
Department of Home,
Secretariat, Fort St. George,
Chennai.
- 2.The Director General of Police,
Government of Tamil Nadu,
O/o.Director General of Police,
Chennai.
- 3.The Superintendent of Police,
O/o. The Superintendent of Police,
Kanyakumari District.
- 4.The Deputy Superintendent of Police,
CBCID,
Tirunelveli,Tirunelveli District.
- 5.The Deputy Superintendent of Police,
District Crime Branch,
Kanyakumari, Kanyakumari District.
- 6.The Inspector of Police,
District Crime Branch,
Kanyakumari District,
(Crime No.18 of 2020)
- 7.The Inspector of Police,
Suchindram Police Station,
Kanyakumari District.
(Crime No.756 of 2020)
- 8.Mr.Baskaran
The Deputy Superintendent of Police,
Kanyakumari.
Kanyakumari District.

9.Mr.Vijay Ananth

....Respondents



PRAYER :- Criminal Original Petition filed under Section 482 Cr.P.C. to direct the third respondent to withdraw the case in Crime No.18 of 2020 dated 29.10.2020 registered for the offence under Section 174 of Cr.P.C, from the file of Respondent No.6 and entrust the same to fourth respondent for conducting investigation of the case, by a Competent Officer or any other independent investigating agency and file a final report before the Jurisdictional Magistrate.

For Petitioner : M/s.T.Lajapathi Roy

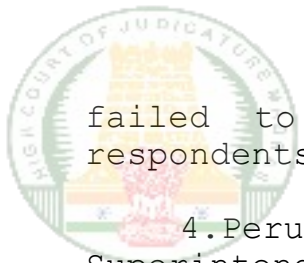
For Respondent : Mr.B.Thanga Aravindh,
Govt. Advocate.(Criminal Side)
for R1 to R7.

ORDER

This Criminal Original Petition has been filed to direct the third respondent to withdraw the case in Crime No.18 of 2020 dated 29.10.2020 registered for the offence under Section 174 of Cr.P.C, from the file of the sixth respondent and entrust the same to the fourth respondent, for conducting investigation, by a Competent Officer or any other independent investigating agency and file a final report before the Jurisdictional Magistrate.

2.The petitioner's son had completed his Post Graduate in Medicine and was doing social work. His wife is a practicing Doctor in a Primary Health Center, Agastheeswaram. While that being so, the ninth respondent herein used to lodge frivolous and false complaint against his son. On 12.07.2020, when the deceased and his wife, along with their two minor children, returning home, after finishing their COVID-19 work at Government Hospital, Thovazhai, the eighth respondent herein and other police officers stopped their car and abused the deceased in front of his family members. He also threatened him and uttered gross words in filthy language, which had caused mental torture and harassment to the deceased. Under these circumstances and due to continuous mental torture and harassment, his son committed suicide on 26.10.2010. Immediately, he was taken to the hospital and was declared as brought dead. Therefore, his wife lodged a complaint, alleging specific allegations against the eighth and ninth respondents herein and the same has been registered in Crime No.756 of 2020 under Section 174 of Cr.P.C., without implicating the eighth and ninth respondents, as accused.

3.Immediately, after the funeral ceremony of the petitioner's son, the Sub-Inspector of Police, Suchindram along with other police personnels entered into the house of the petitioner and enquired the wife of the deceased and threatened to give the suicidal note, wrote by the deceased. They refused to give the original suicidal note and as such, they lodged a complaint on the very next day, through online in Ref.No. HRD 20128822. Even then, the seventh respondent



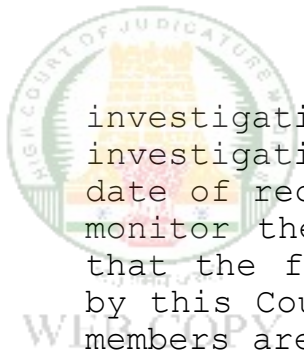
failed to take any action as against the eighth and ninth respondents herein.

4.Perusal of the status report filed by the Additional Superintendent of Police, Crimes Against Women and Children, Kanyakumari District reveals that immediately after registration of FIR, the third respondent herein had appointed the Additional Superintendent of Police, Crimes Against Women and Children, Kanyakumari District as the Investigation Officer and appointed the Deputy Superintendent of Police, for assisting the investigation. On a perusal of the case diary, it reveals that the petitioner and other family members failed to appear before the Investigation Officer, whenever they were called for an enquiry and they have not co-operated for the investigation. Further, they have also not submitted the original suicidal note to investigate further. Therefore, the Investigation Officer recorded the statement of other witnesses under Section 161(3) of Cr.P.C., and taken the videograph while recording the statements.

5.Further, it reveals that in accordance with the statements recorded from the other witnesses, the wife of the deceased used to share with the witness Renganayaki. She has also informed that witness on 12.07.2020, while the deceased and his wife were on the way to Ilanthavillai, the police stopped them, the deceased has informed that his wife is a Doctor. The police asked him from where you have completed your education, for which, the deceased has replied that he had also studied at Russia and his wife is practicing. The deceased was in drunken mood, since he is a Doctor, no case was registered against the deceased.

6.From the above, there are contradictions between the statement recorded by the Additional Superintendent of Police, Crimes Against Women and Children, Kanyakumari District and the statement of the petitioner and his daughter-in-law, ie., wife of the deceased. That apart, the entire allegations alleged against the eighth and ninth respondents herein. The eighth respondent is a Deputy Superintendent of Police. Therefore, the petitioner would not get fair investigation at the hands of Additional Superintendent of Police, Crimes Against Women and Children, Kanyakumari District, since there is specific allegation as against the eighth and ninth respondents herein and produced the copy of suicidal note wrote by the deceased. Even then, the Investigating Officer failed to register any FIR as against them. Therefore, this Court is inclined to transfer the investigation from the file of Additional Superintendent of Police, Crimes Against Women and Children, Kanyakumari District to the file of the fourth respondent herein.

7.Accordingly, the entire case bundle in Crime No.18 of 2020 is hereby withdrawn from the file of the Additional Superintendent of Police, Crimes Against Women and Children, Kanyakumari District and



investigation. The fourth respondent is directed to complete the investigation and file a final report, within twelve weeks, from the date of receipt of case bundle. The third respondent is directed to monitor the investigation done by the fourth respondent and ensure that the fourth respondent has complied with the directions issued by this Court. It is made clear that the petitioner and his family members are directed to cooperate with the investigation, before the fourth respondent, by producing the original suicidal note.

8. With the above directions, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

PNM

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 Principal Secretary,
Department of Home,
Secretariat, Fort St. George, Chennai.
2. The Director General of Police,
Government of Tamil Nadu,
O/o. Director General of Police,
Chennai.
3. The Superintendent of Police,
O/o. The Superintendent of Police,
Kanyakumari District.
4. The Deputy Superintendent of Police,
CBCID,
Tirunelveli,
Tirunelveli District.



5.The Deputy Superintendent of Police,
District Crime Branch,
Kanyakumari,
Kanyakumari District.

6.The Inspector of Police,
District Crime Branch,
Kanyakumari District,
(Crime No.18 of 2020)

7.The Inspector of Police,
Suchindram Police Station,
Kanyakumari District.
(Crime No.756 of 2020)

8. The Additional Superintendent of Police,
Crimes Against Women and Children,
Kanyakumari District.

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

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-15976[F] dated
01/04/2022)

CRL OP(MD). No.13988 of 2020
and Cr1.M.P.No.6427 of 2020

Date : 31/03/2022

RK(18/04/2022) 5P 11C