



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2022

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.14223 of 2020

Boopathi

... Petitioner

Vs.

1.The Superintendent of Police,
Ramanathapuram District.

2.The Inspector of Police,
Devipattinam Police Station,
Ramanathapuram District.

3.The Inspector of Police,
C.B.C.I.D.,
Ramanathapuram,
Ramanathapuram District.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to transfer the investigation in Crime No.61 of 2019 pending on the file of the second respondent to the file of the third respondent or to any other specialized agency.

For Petitioner : Mr.C.Senthil Murugan

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed for transfer of investigation in Crime No.61 of 2019 from the file of the second respondent to the file of the third respondent.

2.The case of the petitioner is that her husband in the case of sand theft was brutally assaulted by the second respondent police personnel and murdered him. Consequently, the second respondent registered the case in Crime No.61 of 2020 for the offence under Section 174 of Cr.P.C. Further, the case of the petitioner is that she learnt that her husband and other involved in Crime No.60 of 2020 alleging that they indulged in illegal sand transportation.

3.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondents.



4. On a perusal of the counter-affidavit filed by the second respondent revealed that on the complaint received from the petitioner, the second respondent registered the F.I.R in Crime No.61 of 2020 for the offence under Section 174 of Cr.P.C. Thereafter, went to the place of occurrence and recorded the statements. Though the F.I.R has been registered under Section 174 of Cr.P.C, after seeing the injury on his head, the case was altered to the offence under Section 302 of I.P.C. Further, the first respondent had transferred the investigation from the file of the second respondent to the Deputy Superintendent of Police, District Crime Branch, Ramanathapuram, by proceedings dated 01.10.2020. The Deputy Superintendent of Police had conducted investigation, in which, two witnesses, namely Thennarasu and Chandran, were produced before the learned Judicial Magistrate No.I, Ramnad on 10.11.2020 and their statements have been recorded under Section 164 of Cr.P.C. According to them, the deceased had accidentally fallen down from the bridge, as he suddenly fainted due to giddiness. Thereafter, the post mortem of the deceased also corroborated the statement of the witnesses. After completion of investigation, F.I.R has been closed as 'mistake of fact'. Therefore, this Court directed the witnesses namely Chandran and Thennarasu to be present before this Court.

5. Today, both Chandran and Thennarasu are present before this Court and deposed before this Court as that of recorded under Section 164 of Cr.P.C. In the accident register which was registered by the Head Quarters Hospital, Ramanathapuram revealed that as the deceased was assaulted by unknown persons, there is no indication that the police personnel attacked him. Therefore, the entire investigation conducted by the Deputy Superintendent of Police, District Crime Branch and not by the second respondent. That apart, there is no investigation is pending on the file of the second respondent, since already the Deputy Superintendent of Police conducted investigation and closed the same as 'mistake of fact'.

6. In view of the above, the transfer of investigation does not arise and accordingly, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (As)

// 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.

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



To

1.The Superintendent of Police,
Ramanathapuram District.

2.The Inspector of Police,
Devipattinam Police Station,
Ramanathapuram District.

3.The Inspector of Police,
C.B.C.I.D.,
Ramanathapuram,
Ramanathapuram District.

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

**Crl.O.P(MD)No.14223 of 2020
11.04.2022**

MGJ(25.04.2022) 3P 5C