



CRL.O.P(MD)No.17068 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 22.09.2022

CORAM

THE HON'BLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

CRL.O.P(MD)No.17068 of 2022

P.Thangamari

... Petitioner

Vs.

1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

2.The Deputy Superintendent of Police,
Aruppukottai,
Virudhunagar District.

3.The Inspector of Police,
CBCID, Virudhunagar,
Virudhunagar District.

4.The Sub Inspector of Police,
Aruppukottai Town Station,
Virudhunagar District.
(In Crime No.201 of 2022)

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to pass necessary order permitting the Petitioner to transfer the investigation in the case in Crime No.201 of 2022 from 4th Respondent to 3rd Respondent or any other independent investigating agency.



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For Petitioner : Mr.M.Jothi Basu
For R1 : Mr.T.Senthilkumar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to transfer the investigation in Crime No.201 of 2022 from the file of the 4th Respondent to the file of the 3rd Respondent or any other independent Investigating Agency.

2. The learned Counsel for the Petitioner submit that the Petitioner's son was taken by the 4th Respondents police for enquiry. The Petitioner's daughter-in-law had given a complaint to the Inspector of Police, CBCID, Virudhunagar District. On 17.09.2009, post-mortem was conducted and there are 11 injuries in the body of the deceased. He further submit that as per the injuries and opinion of the Doctor, who performed autopsy over the dead body of the deceased, injury Nos. 1 to 11 mentioned in external injuries are ante-mortem in nature and they were recent injuries approximately within 24 hours prior to the death. Therefore, the Petitioner seeks to transfer the investigation from the file of the 4th Respondent to the file of the third Respondent.



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3.The learned Additional Public Prosecutor objected to the line of arguments of the learned Counsel for the Petitioner stating that the Director General of Police vide proceedings dated 14.09.2022 in Rc.No. 007709/Crime 3(1)/2022, had himself transferred the investigation to CBCID. Thereafter, the Director General of Police, Crime Branch CID, had also issued proceedings in Rc.No.I(1)/757/13987/2022, dated 15.09.2022 appointing the Investigation Officer attached to the CBCID, Virudhunagar.

4.By way of rejoinder, the learned Counsel for the Petitioner submitted that in spite of handing over the investigation to the CBCID, no officer had come to response of the Petitioner and recorded the statement of the Petitioner and others, who are witnesses to the occurrence.

5.The Additional Public Prosecutor however, submitted that after the transfer of investigation to CBCID, the relatives of the deceased not co-operated with CBCID. Hence, the investigation could not proceed. The relatives of the Petitioner and some of the communal force are agitated in the hospital and also refused to take the dead body. On 16.09.2022, inquest



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was conducted by the learned Judicial Magistrate, Aruppukkottai and the body was forwarded from the Government Hospital, Aruppukkottai to the Government Medical College Hospital, Virudhunagar for post-mortem, as per the dictum laid down by this Court in ***W.P(MD)No.12608 of 2020*** in ***Santhosh Vs. District Collector, Madurai and others, dated 02.12.2020***. Further, the Additional Public Prosecutor submitted that the entire post-mortem was recorded through video graph and copy of the CD also handed over to the Petitioner's family.

6. So the Magistrate has already conducted the enquiry, the Petitioner and his family members as well as others those, who are aware of the fact prior to the death of the deceased Thangapandi and after his death are to appear before the Magistrate to make statement regarding the facts within their knowledge, but none of them co-operated with the legal formalities. Therefore, the investigation regarding this death is unable to proceed.

7. Considering the submission of the learned Additional Public Prosecutor, the Petitioner is directed to co-operate with the statutory provisions, since the FIR had been registered on 21.09.2022 by the CBCID,



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Virudhunagar in Crime No.4 of 2022, to permit the learned Judicial Magistrate/Executive Magistrate to conduct inquest over the body, if necessary. The Investigating Officer is ready to proceed with the investigation, but the witnesses are not ready to co-operate with the investigation. The Petitioner is directed to co-operate with the pending investigation. The Director General of Police, had already transferred the investigation to protect the interest of the Petitioner and to avoid unnecessary controversy against the local police. In such circumstances, it is not a fit case to transfer the investigation to some other Agency. The Superintendent of Police, CBCID, is directed to supervise the investigation and also to inform the stage of the investigation to the Petitioner.

8.The Investigating Officer is directed to proceed with the investigation based on the submission made by the learned Additional Public Prosecutor in the open Court. There cannot be any politics over the dead body and no communal colour will be given. Further, the Petitioner is directed to take back the body, when it is handed over by the officials concerned.



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9.Further, this Court given direction to the Deputy Superintendent of Police, Srivilliputhur. He will be instructed that, if the dead body is not taken back by the Petitioner's family members within one day, then consulting with the District Administration, it is always open for them to follow the procedure regarding unclaimed dead body, and complete the formalities for decent burial with the police protection.

10.When the Court made an observation, the learned Counsel for the Petitioner undertakes to take back the dead body.

10.Accordingly, this Criminal Original Petition is disposed of.

22.09.2022

Index:Yes/No

vsd

Note:Issue Order Copy on 22.09.2022



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To

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Virudhunagar District,
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Virudhunagar District.
- 3.The Inspector of Police,
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- 4.The Sub Inspector of Police,
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(In Crime No.201 of 2022)
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

vsd

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