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Crl.O.P.(MD)No. 22183 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23/06/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.22183 of 2018

Chinnathambi : Petitioner
Vs.

- 1.The Superintendent of Police
Sivagangai District,
Sivagangai.
- 2.The Inspector of Police,
Devakottai Taluk Police Station,
Devakottai,
Sivagangai District.
- 3.The Deputy Superintendent of Police,
CBCID,
Sivagangai,
Sivagangai District.
- 4.The Deputy Superintendent of Police,
District Crime Branch,
Sivagangai. : Respondents
(4th respondent *suo motu* impleaded
as per the order, dated 10/11/2021
in Crl.OP(MD)No.22183 of 2018)

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to transfer the investigation in Crime No.66 of 2018 from the 2nd respondent to 3rd respondent.

For Petitioner : Mr.P.Muthusamy
For Respondents : Mr.SS.Madhavan
Government Advocate
(Criminal side)



Crl.O.P.(MD)No. 22183 of 2018

O R D E R

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This criminal original petition is filed seeking for transfer of the investigation in Crime No.66 of 2018 from the file of the 2nd respondent to the file of the 3rd respondent.

2.The facts in brief:-

The deceased is the son of the petitioner. He was working in Kovilur Tamil Nadu Chemical Factory. On 01/04/2018, he went to the work in the early morning at about 5.30 am, in his motor bike. At about 6.15 am, his sister called over phone stating that there was an accident near Paruthiyur. He went to the spot and found that his son body was taken to the hospital. He found his helmet. The motor bike was also found in that place. On information, he went to the private hospital. They informed him that his son was already dead. Later, he came to know that the accused persons have set up to show that it is an accident. He was told that Sangaiah, Tamil, Pandi and Jeyaraman were crossing the road in a drunken mood, at that time, his son dashed against Sangaiah. Because of the above said, wordy quarrel broke out between them, as result of which, Pandi



Crl.O.P.(MD)No. 22183 of 2018

attacked with knife in the chest region, Jeyaraman attacked him with knife in the abdomen and others were holding the deceased. A wrong information has been given to the police, as if the accident took place. On the basis of the complaint given by the above said Sangaiah, a case in Crime No.66 of 2018 for the offences under sections 279, 337 and 304(A) IPC was registered. Body was taken to Devakottai Government Hospital and postmortem was conducted. Injuries in the chest and abdomen were found. One Rajendran @ Mathan was acting as a Mediator. After perusing the postmortem report, he found some stab injuries. So, he may not get justice at the hands of the 2nd respondent, filed this petition for transfer of investigation from the file of the second respondent to the file of the 3rd respondent or the 4th respondent, as the case may be.

3.Heard both sides.

4.On purely suspicious, this petition has been filed by the petitioner stating that it is a clear case of murder. To verify the correctness of the investigation process, the Investigating Officer was directed to be present before this court. He was also present before this court and submitted that demonstration was also conducted



Crl.O.P.(MD)No. 22183 of 2018

in the place of occurrence as to how the occurrence has taken place. At that time, photographs were also taken, which are also available in the CD file. From the demonstration, according to the Investigating Officer, it was found that the accused persons were carrying the tools for their profession and the deceased accidentally, hit against the tools, it caused injury in the body. Absolutely, there is no intention or motive for the accused persons to commit murder. So, according to the Investigating Officer, in all probabilities, it is purely an accident and so, the allegation that has been made by the petitioner is without any ground.

5.Perusal of the status report shows that since there was a foul play in the death of his son, the petitioner filed a petition in W.P(MD)No.8142 of 2018 stating that his representation, dated 06/04/2018 must be considered. This court directed the respondents police to expedite the investigation process and file a final report within a period of six weeks from the date of the receipt of the order copy. Later, as per the order of the Director General of Police, the case was transferred to the District Crime Branch, Sivagangai. Thereafter, the Inspector of Police, took up further investigation, on 05/07/2018 and recorded



Crl.O.P.(MD)No. 22183 of 2018

the statement of the witnesses as well as the further examination of the witnesses. So, on the basis of the investigation, that has been conducted by the Inspector of Police, District Crime Branch, Sivagangai, finding that it is a pure case of accident, they have to file a final report before the concerned court. The reason for entertaining a doubt and suspicion for the petitioner is that there were two injuries on the chest region, which according to the petitioner, are stab injuries. The second injury is noted as 2.5 cm on the left side of the chest region on 4th rib level. It was also found to be bone deep.

6.The opinion of the forensic science lab, with regard to the nature of the injuries as well as the weapon, that would have caused the injuries has also been sought for and also sent the report stating those would have caused the injuries. As mentioned earlier, these root cause of the reason for the petitioner to entertain a suspicious that it is a pure case of murder. But from the perusal of the CD file and the opinion that has been sent by the expert, it is seen that even though, the injuries have been caused by the sharp edged weapon, in my considered view, it was not intentional, but that was only accidental, which was informed by the deceased himself.



Crl.O.P.(MD)No. 22183 of 2018

7.The contention on the part of the petitioner that a wrong information has been given by the accused Sangahai that it is a case of accident, which is not supported by any circumstantial evidence. So, as it stands today, I am of the considered view that absolutely, there is no bias investigation undertaken by the District Crime Branch, Sivagangai. Though, it is contended that the original Investigating Officer, later took up the investigation in the capacity of Inspector of Police, District Crime Branch, Sivagangai, that cannot be considered to be a ground for transferring the investigation.

8.The learned counsel appearing for the petitioner would rely upon the judgment of this court in the case of P.Jeyarajan Vs. The State of Tamil Nadu and others (WP (MD)No.6768 of 2013, dated 12/01/2015) and M.Mahendrakumar Vs. M.Mani and others (Criminal Appeal No. 461 of 2015, dated 17/03/2015), rendered by the Hon'ble Supreme Court for the purpose argument that when a strong case has been made out by the petitioner, transfer of the investigation is only proper remedy. No doubt that if a strong case has been made out, transfer of investigation cannot be ordered and transfer of investigation cannot be ordered in a routine manner and it requires strong ground.



Crl.O.P.(MD)No. 22183 of 2018

9. But as mentioned earlier, absolutely, I find no ground to transfer the investigation. It has been undertaken in an unbiased manner, which is evident from the perusal of the CD file. Since the final report is also made ready and going to be presented before the concerned court, if the petitioner still aggrieved, he can very well approach the concerned court for appropriate relief. That sort of remedy is always available to the petitioner. Except that course, at this stage, the petitioner is not entitled for the relief, that has been sought for in this petition.

10. In the result this criminal original petition deserves dismissal and accordingly, it is **dismissed**. However, liberty is granted to the petitioner as noted above.

23.06.2022

Internet: Yes/No
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Crl.O.P.(MD)No. 22183 of 2018

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Crl.O.P.(MD)No. 22183 of 2018

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To,

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Sivagangai.
- 2.The Inspector of Police,
Devakottai Taluk Police Station,
Devakottai,
Sivagangai District.
- 3.The Deputy Superintendent of Police,
CBCID,
Sivagangai,
Sivagangai District.
- 4.The Deputy Superintendent of Police,
District Crime Branch,
Sivagangai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G . ILANGO VAN , J . ,

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