



Crl.O.P.No.8552 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 04.07.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

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Magesh

... Petitioner

Vs.

1.State represented by
The Commissioner of Police
Greater Chennai

2.State represented by
The Inspector of Police
K3 Aminjikkarai Police Station
Chennai 600 029.

... Respondents

This Criminal Original Petition is filed under Section 482 Cr.P.C. to direct the 1st Respondent to transfer the Investigation pending on the file of the 2nd Respondent in Crime No.723 of 2021 to some other investigating officer under the Supervision of the 1st Respondent.

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For Petitioner : Mr.P.Ramesh Kumar
For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed for a direction to transfer the investigation that is pending on the file of the 2nd respondent in Crime No.723 of 2021.

2. The case of the petitioner is that his brother Ramesh was living in a property at Railway Colony, Aminjikarai, Chennai. There was also a litigation that was pending among the brothers seeking for partition in A.S.No.469 of 2017. The said Ramesh was living alone in the rear portion of the property and he was also a cab driver, who used to regularly move between Bangalore, Mumbai and Chennai.

3. The further case of the petitioner is that on 05.08.2021 one Mohana called upon the brother-in-law of the petitioner and



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informed him that some bad smell was emanating from the portion that was occupied by the above said ramesh. The petitioner on receipt of the information, visited the premises along with his brother-in-law viz., Prem Kumar around 5.00 p.m on 05.08.2021 and they found a skeleton with clothes buried in heaps of rubbish. A complaint was given in this regard before the 2nd respondent and it was registered under Section 174 of Cr.PC in Crime No.723 of 2021.

4. The grievance of the petitioner is that the 2nd respondent was not taking any effective steps and the investigation was not going on in the right direction and there was a clear suspicion behind the death of the said Ramesh, which was not properly investigated. In view of the same, the present petition has been filed before this Court seeking for transfer of investigation.

5. During the pendency of this petition, the 2nd respondent filed a status report along with all the relevant documents. For



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proper appreciation, the relevant portions in the status report are extracted hereunder :-

4. I submit that after registering the FIR, I visited the scene of occurrence and prepared observation mahazaar and rough sketch in the presence of witnesses and examined 19 witnesses and recorded their statements.

5. I submit that I have conducted inquest over the said skeleton body of Thiru.N.Ramesh in the presence of Panchayathars 06.08.2021 from 07.00 hours to 09.00 hours. on The Panchayathars unanimously concluded that the deceased did not speak with others and he was alone in the house and consume liquor. Due to Corona Pandemic situation, the deceased stayed in the house and would have died due to consumed liquor continuously or due to some other reasons.

6. I submit that Tmt. Nirmala Bai, Forensic Science Department visited the scene of occurrence and conducted examination of the deceased dead body. To find out the cause of death, I have sent the said body of the deceased to K.M.C. Hospital mortuary for conducting Post Mortem with a requisition to the Medical Officer to conduct Post Mortem. To identify the deceased, thigh bone and Skull photos were also sent to the Post Mortem Doctor for conducting Super Imposition with a request to keep in safe custody the Skull. Necessary Post Mortem was conducted on 06.08.2021 and body of the deceased Thiru N. Ramesh was handed over to his brother Thiru N. Megesh for cremation. Post Mortem certificate was received on 06.08.2021, in which reveals that



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the cause of death could not be ascertained since the body was in advance state of decomposition.

7. I submit that I sent the requisition letter to the Hon'ble V Metropolitan Magistrate Court, Egmore, Chennai to grant permission to the forensic Science Department to contact Super imposition with Skull Bone of the Deceased and the same ordered on 27.04.2022. On 07.10.2022, the skull report was received from Dr.D.Thilaga, M.Sc., Ph.D., Deputy Director, Anthropology Division, Forensic Science Department, Mylapore, she opined that the skull, item 2 could possibly have belonged to the male individual seen in the photograph item 1.

8. I submit that the respondent police conducted a detailed investigation by doing the following aspects:-

(a) On 06.08.2021 the respondent police went to the scene of occurrence and drew rough sketch and prepared observation mahazar in

the presence of witnesses.

(b). On 06.08.2021 the respondent police examined 19 witnesses and recorded their statements

(c) On 06.08.2021, the respondent police conduct inquest on the deceased body in the presence of panchayathars and sent the deceased body to Post Mortem to Kilpauk Medical College Hospital, Chennai.



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(d) On 06.08.2021, after completion of Post Mortem the deceased body was handed over to one Tr.N.Magesh, Complainant/ Brother of deceased.

(e) On 06.08.2021, the respondent police obtain the Post Mortem certificate from Dr.Manikandaraj, Senior Assistant Professor of Forensic Medicine, Kilpauk Medical College, Chennai " in which reveals that the cause of death could not be ascertained since the body was in advance state of decomposition"

(f) On 22.04.2022, the respondent police gave a requisition letter to the Learned V Metropolitan Magistrate Court, Egmore to grant permission to sent the deceased Skull bone to Forensic Science Laboratory, Mylapore, Chennai for contact Super Imposition and the same was allowed on 27.04.2022 from the concerned court.

(g) On 29.07.2022 the Investigation Officer nominate one Women Gr.1-43504 Tmt.Sameera Begam to handed over the deceased Skull bone to the Forensic Science Laboratory, Mylapore, Chennai

(k) On 07.10.2022, the respondent police received the Forensic Science Laboratory report from Dr.D.Thilaga M.Sc., Ph.D., Deputy Director, Anthoropology Division, Forensic Science Laboratory and she opined that the "skull, item 2 could possibly have belonged to the male individual seen in the photograph item. 1"

9. I submit that after completion of elaborate and detailed investigation, on 12.11.2022, I have came to conclusion and closed this case in Crime No.723 of 2021 as "Further Action



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Dropped" and Direct served R.C.S. Notice vide No.03/2022 to the Petitioner / de-facto complainant.

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6. Heard Mr.P.Ramesh Kumar, learned counsel for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor for respondents.

7. This Court has carefully considered the status report along with the relevant documents that have been filed by way of typed set of papers. This Court finds that the 2nd respondent has reached the right conclusion based on the materials that were available in course of investigation. This Court does not find any apparent dereliction on the part of the 2nd respondent and the 2nd respondent has done all that is possible to identify the skeleton and it was found that there were no symptoms of any attack made on the deceased even as per the postmortem report. Ultimately, the 2nd respondent has closed the case as further action dropped and RCS notice was also served on the petitioner.



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8. Except for the fact that the petitioner is having a suspicion regarding the death of his brother Ramesh, nothing much has come out of the investigation and no purpose will be served by transferring the investigation in this case. Ultimately, the investigation has to come to an end since the 2nd respondent was not able to collect any material to even remotely suspect any one for the cause of the death of the deceased Ramesh.

9. In the light of the above discussion, this court is not inclined to grant the relief and this petition stands dismissed.

04.07.2023

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Index :Yes/No
Internet:Yes
Speaking Order/Non-speaking Order

To

1. State represented by
The Commissioner of Police
Greater Chennai

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2.State represented by
The Inspector of Police
K3 Aminjikkarai Police Station
Chennai 600 029.

3. The Public Prosecutor,
Madras High Court,
Chennai.

N.ANAND VENKATESH,J.

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