



Crl.O.P.No.23265 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 23.06.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.23265 of 2022

K.Malarkodi

... Petitioner/De-facto complainant

Versus

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

2.The Inspector of Police,
Sirkali Police Station,
Mayiladuthurai.

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

... Respondents

PRAYER : Criminal Original petition filed under Section 482 Cr.P.C. praying to direct the first respondent to transfer the case in Crime No.85/2022 on the file of Inspector of Police, Sirkazhi Police Station, the second respondent herein to the Inspector of Police, CBCID, Mayiladuthurai, the third respondent herein.



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For Petitioner : Mr.A.Ramesh
For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This petitioner/de-facto complainant in Crime No.85/2022 has filed this petition seeking a direction to the first respondent to transfer the case in Crime No.85/2022 on the file of Inspector of Police, Sirkazhi Police Station to the Inspector of Police, CBCID, Mayiladuthurai.

2. The contention of the petitioner is that the petitioner's elder daughter Sheela Devi was married to one Mohanraj of Sirkazhi Taluk on 05.02.2020. During marriage 13 sovereigns of gold ornaments, household articles worth about Rs.5,50,000/- and a two wheeler were given as dowry to Mohanraj. After the marriage they got a female child. During her matrimonial life, her daughter was frequently beaten and tortured demanding dowry. The petitioner on several occasions pacified them. This being so, on 01.02.2022 the petitioner gone to her daughter's house and stayed with her. On the whole



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night her daughter was abused and harassed even in front of the petitioner.

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Thereafter, the petitioner advised her and returned home. On 02.02.2022 at about 9.40 a.m. her other daughter Lavanya received a phone call informing that petitioner's daughter Sheela Devi self immolated and died and her body was kept in Government Hospital, Sirkazhi. The petitioner rushed there and found her daughter's body in a burnt condition. She visited the scene of occurrence and found that her daughter died 50 meters away from the house. She suspected that her daughter's husband and in-laws had forcibly burnt her by pouring kerosene on her. Hence, the petitioner lodged a complaint before the second respondent. Initially, F.I.R. was registered in Crime No.85 of 2022 for offence under Section 174(3) of Cr.P.C. Since the death of her daughter is within 7 years from the marriage, R.D.O. enquiry commenced. R.D.O. conducted an enquiry and submitted a report on 28.02.2022. The petitioner objected to the report, since R.D.O. in his report had stated that he had collected some secret information. From whom such information has been collected is not known. The Revenue Divisional Officer on his own had



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come to a conclusion without any materials that the petitioner's daughter's death was not due to dowry harassment. Simultaneously recorded that the petitioner, her other daughter and relatives stated that the death of petitioner's daughter is unnatural and suspicious. The petitioner also sent a representation to the first respondent on 12.03.2022 enclosing the F.I.R. and alteration report, wherein the case has been altered from Section 174(3) Cr.P.C. to Section 498-A r/w 306 of I.P.C. Her specific complaint is that offence under Section 304-B of I.P.C. has been made against the accused and charge sheet has not been filed with that offence. Hence, the petitioner approached this Court by way of filing this petition.

3. Learned Additional Public Prosecutor submits that in the above case on the complaint of the petitioner, a case in Crime No.85 of 2022 was initially registered under Section 174(3) of Cr.P.C. After completing the investigation, charge sheet filed for offence under Sections 498-A r/w 306 I.P.C. against Mohanraj, husband of the deceased Sheela Devi and his family



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members, namely, Karpagavalli, Vijayamohan and Durgadevi. The final report listing 20 witnesses and the documents collected have been filed before the learned Judicial Magistrate, Sirkazhi, which is now before the committal Court in P.R.C. No.20 of 2023 and it was posted on 21.06.2023. Since fresh summons were ordered to the accused, the case is now posted on 13.07.2023. He further submitted that now investigation completed. If the petitioner has got any grievance and objections for not including Section 304-B I.P.C., she can approach the concerned Court and file appropriate petition seeking alteration or addition of charges.

4. Considering the submissions made and on a perusal of the material it is seen that the primary concern of the petitioner is that Section 304-B I.P.C. has not been included despite her daughter died in suspicious circumstances. The Hon'ble Apex Court in the case of ***Bhupendra vs. State of Madhya Pradesh*** reported in ***(2014) 2 SCC 106***, had dealt in detail the case of unnatural death and held that Sections 304-B and 306 I.P.C. are not



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mutually exclusive. Further, Hon'ble Apex Court held that Section 306 r/w 498-A alternatively can be framed under Section 304-B. Recently in the case of ***Bhagwanrao Mahadeo Patil vs. Appa Ramchandra Savkar and Others*** reported in ***2021 SCC OnLine SC 3291*** the same reiterated. In view of the above, the Court of Sessions on the above materials can frame appropriate charges both under Sections 498-A r/w 306 of I.P.C. and alternate charge under Section 304-B of I.P.C and proceed with the trial and dispose of the same in accordance with law.

With the above directions, this Criminal Original Petition is disposed of.

23.06.2023

Index : Yes / No

Internet : Yes/No

Speaking / Non-speaking order

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To

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- 1.The Superintendent of Police,
Mayiladuthurai District,
Mayiladuthurai.
- 2.The Inspector of Police,
Sirkali Police Station,
Mayiladuthurai.
- 3.The Inspector of Police,
CBCID, Mayiladuthurai,
Mayiladuthurai District.
- 4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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