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CrI.OP.No.23780 of 2021 & WP.No.3213 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CrI.OP.No.23780 of 2021 and WP.No.3213 of 2021

CrI.OP.No.23780 of 2021

Kanniyammal

... Petitioner

Vs.

- 1.The Superintendent of Police,
Cuddalore District,
Cuddalore
- 2.The Deputy Superintendent of Police,
Thittakudi Sub-Division,
Cuddalore District
- 3.Inspector of Police,
Ramanatham Police Station,
Cuddalore District
- 4.Sub Inspector of Police,
Ramanatham Police Station,
Cuddalore District,
Crime No.1060 of 2020
- 5.The Joint Director,
Central Bureau of Investigation(CBI),
Shastri Bhavan,
Chennai-20

... Respondents

PRAYER: Criminal original petition is filed under Section 482 of Cr.P.C. to direct the respondent No.4 herein to entrust the case in crime No.1060 of 2020 (on the file of the fourth respondent herein) to the independent agency like 5th respondent CBI herein to conduct further investigation into the matter in



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accordance with law.

For Petitioner

: Mr.M.Velmurugan

For Respondents

For R1 to 4

: Mr.A.Gopinath,
Government Advocate(crl.side)

For R5

: Mr.K.Srinivasan,
Senior Counsel,
Special Public Prosecutor
for CBI Cases

WP.No.3213 of 2021

Kanniyammal

... Petitioner

Vs.

- 1.The Government of Tamilnadu,
Represented by its Chief Secretary,
Secretariat,
Fort St.George,
Chennai 600 009
- 2.The Principal Secretary,
Home Department,
Secretariat,
Fort St.George,
Chennai 600 009
- 3.The Director General of Police,
DGP Office,
Mylapore,
Chennai 600 028
- 4.The Additional Director General of Police,
CBCID,
Alandur,
Chennai 600 016
- 5.The Joint Director,
Central Bureau of Investigation(CBI),
Besent Nagar,
Chennai 600 090



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6.The Deputy Director General of Police,
(North Zone)

Alandur,
Chennai 600 016

7.The Superintendent of Police,
Cuddalore District,
Cuddalore

8.The Deputy Superintendent of Police,
Thittagudi Sub Division,
Cuddalore District

9.The Inspector of Police,
Ramanatham Police Station,
Cuddalore District

10.Paramasivam

11.Maruthai

12.Murugan

13.Selvi

14.Kolani

15.Varatharaj

16.Sathiya

17.Anjalam

18.Kannan

... Respondents

(R1 to R6, R10 to R18 deleted vide order
dated 16.02.2021 made in WP.No.3213 of 2021)

PRAYER: Writ petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the second respondent to withdraw the case in crime No.1056 of 2020 on the file of the eighth respondent herein and to hand over the same to the fifth respondent herein to conduct re-investigation in respect of crime No.1056 of 2020 by considering the representation of the petitioner dated 27.08.2020 on the file of the second respondent herein to secure the ends of justice.

For Petitioner

: Mr.M.Velmurugan

For Respondents



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For R7 to 9

: Mr.A.Gopinath,
Government Advocate(crl.side)

COMMON ORDER

The criminal original petition in Crl.OP.No.23780 of 2021 has been filed to direct the respondent No.4 herein to entrust the case in crime No.1060 of 2020 (on the file of the fourth respondent herein) to the independent agency like 5th respondent CBI herein to conduct further investigation into the matter in accordance with law. The writ petition in WP.No.3213 of 2021 has been filed for direction to the second respondent to withdraw the case in crime No.1056 of 2020 on the file of the eighth respondent herein and to hand over the same to the fifth respondent herein to conduct re-investigation in respect of crime No.1056 of 2020 by considering the representation of the petitioner dated 27.08.2020 on the file of the second respondent herein.

2. Insofar the writ petition in WP.No.3213 of 2021, the petitioner is the wife of one of the deceased accused Mr.Thangavel. The case of the prosecution is that on 18.07.2020 at around 05.00 PM in Venganur village in Tittagudi Taluk, a fight ensued between the petitioner's husband Thangavel's brother Sanjai Gandhi's son Saravanan and Maruthai's son Murugan near a



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well in one Mustafa's land. In the fight between Saravanan and Murugan,

Murugan got injured. On the same day at around 07.30 PM, Murugan's father

Maruthai confronted Saravanan and his father Sanjai Gandhi and this in turn

turned into a fight between both families and again people of the village

compromised them. Again the next day on 19.07.2020 early morning at around

03.00 am, petitioner's husband Thangavel's brother Rajiv Gandhi confronted by

one Chellamuthu who is the brother of Maruthai regarding the fight on the day

before. This happened near the house of one Kullaponnu in Venganur village.

The fight between Rajiv Gandhi and Chellamuthu in turn became a riot

between both the families and both sides got injured. On the same day, on the

complaint of one, Perumal, who is the relative of the petitioner and her

husband Thangavel, a CSR was registered in Ramanatham Police Station in

CSR.No. 481/2020, dated 19.07.2020 against Chellamuthu and 7 others.

Similarly on the complaint of the said Chellamuthu against petitioner and her

relatives, a CSR was registered in Ramanatham Police Station in CSR No.482

of 2020 dated 19.07.2020 against Sanjai Gandhi and 6 others. The injured

Thangavel i.e. the Petitioner's husband was first admitted at Tittagudi

Government Hospital on 19.07.2020 at 06.30 am, where he was given first aid

and then he was taken to Perambalur Government Hospital on the same day,

where he was admitted at 02.00 pm and the accident register entry mentions



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sutured wounds in parietal region, vertex and occipital region and contusion in left arm and shoulder.

3. It is seen that counter party also lodged complaint i.e. Mr.Chellamuthu also lodged complaint as against the deceased on 19.07.2020 itself and he was issued CSR.No.482 of 2020. However, no FIR was registered on both the complaints. For the occurrence dated 19.07.2020, since both the parties are close relatives, they were directed to go for amicable settlement between them. The deceased Thangavel was admitted into hospital on 19.07.2020. Thereafter, he went to Government Hospital, Tittakudi, Cuddalore District. Once again, he was referred to the Government Hospital, Perambalur. On 19.07.2020, he was admitted as inpatient and he was discharged on 24.07.2020. The discharge report says as follows:

DOA : 19.07.2020 3.15 p.m.

DOD : 24.07.2020 1 p.m.

CT Brain – No significant abnormalities detected

CT Chest – supposed to NO Covid 19

Throat Swab 21.07.2020 – Negative

With the available records the injury is simple in nature



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4. For the injuries sustained by the said deceased, he was given treatment and discharged from hospital as early as on 24.07.2020. Thereafter, he suffered with heart ailments and as such, once again he was taken to Government Hospital, Perambalur. He was referred to another hospital for better treatment i.e. Government Hospital, Trichy. He had taken treatment till 05.08.2020. Unfortunately he died on 05.08.2020 for his heart ailments. The postmortem summary of the Government Hospital, Trichy is as follows:

49/M Thangavel admitted on 01.08.2020 with complaint of breathlessness. Patient was treated with antibiotics and CT chest was suspected of covid. Covid swab test negative. Routine Investigation done on 05.08.2020 at 6.30 a.m.. Patient developed sudden cardiac arrest and Inj.Adrenalin/dopamin and CPR started with back and mask ventilated. In spite of all resuscitation effort, patient was declared dead on 05.08.2020 @ 7.15 a.m.

?pulmonary edema

cause of death ?Acute myocardial infarction

5. Thereafter, the postmortem was conducted and the postmortem report says that the deceased would have died of cardiomyopathy. Even after



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postmortem, the petitioner and her group of persons refused to accept the body

unless a case shall be registered for the offence punishable under Section 302

of IPC. At that juncture, the third respondent was constrained to register FIR in

crime No.1056 of 2020 for the offence punishable under Sections 147, 148,

323, 324 and 302 of IPC as against nine accused persons. After completion of

investigation, they filed final report for the offence under Sections 147, 148,

323 and 324 of IPC as against nine accused persons on 11.03.2022, which was

assigned in CMP.No.3505 of 2023 dated 19.09.2023. Insofar as the occurrence

took place on 19.07.2020, another FIR was registered in crime No.1060 of

2020 for the offence under Sections 147, 148, 294(b), 324 and 506(ii) of IPC

as against the 11 accused persons including the deceased. After completion of

investigation, final report was filed and the same has been taken cognizance

excluding the deceased person in CC.No.122 of 2023 on the file of Judicial

Magistrate, Tittakudi.

6. Therefore, the learned counsel for the petitioner would submit that there are evidences to attract the offence under Section 302 of IPC as against accused person in crime No.1056 of 2020. Even then, the third respondent without adding the offence under Section 302 of IPC, mechanically filed final report only for the offence under Sections 147, 148, 323 & 324 of IPC. When



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there is a counter complaint, the same Deputy Superintendent of Police has to conduct investigation as per the police standing order. However, the third respondent failed to conduct any investigation.

7. On perusal of records, revealed that the third respondent was constrained to register FIR for the offence under Section 302 of IPC since the petitioner and her group of persons refused to take the body of the deceased . Only fault committed by the third respondent for the occurrence dated 19.07.2020 was that no FIR was registered though received complaint from both the groups. Therefore, disciplinary proceedings was initiated and the Inspector of Police who failed to register FIR was imposed punishment of postponement of increment for one year. Therefore, this Court finds no grounds to transfer the investigation in crime Nos.1056 and 1060 of 2020. That apart, already investigation was completed and in both FIR's, final report was filed. However, if any incriminating materials available during the trial before the trial court, the petitioner can very well invoke the provision under Section 216 of Cr.P.C.

8. In view of the above, both the criminal original petition as well as the writ petition are dismissed. There shall be no order as to costs in respect of the writ petition.



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Index : Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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To

- 1.The Superintendent of Police,
Cuddalore District,
Cuddalore
- 2.The Deputy Superintendent of Police,
Thittakudi Sub-Division,
Cuddalore District
- 3.Inspector of Police,



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- Ramanatham Police Station,
Cuddalore District
4. Sub Inspector of Police,
Ramanatham Police Station,
Cuddalore District
5. The Joint Director,
Central Bureau of Investigation(CBI),
Shastri Bhavan, Chennai-20
6. Chief Secretary,
The Government of Tamilnadu,
Secretariat, Fort St. George,
Chennai 600 009
7. The Principal Secretary,
Home Department,
Secretariat, Fort St. George,
Chennai 600 009
8. The Director General of Police,
DGP Office,
Mylapore,
Chennai 600 028
9. The Additional Director General of Police,
CBCID, Alandur,
Chennai 600 016
10. The Deputy Director General of Police,
(North Zone), Alandur,
Chennai 600 016
11. The Government Advocate,
High Court of Madras

G.K.ILANTHIRAIYAN, J.

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