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Writ Petition (MD)No.14602 of 2013



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 04.07.2023

DELIVERED ON : 10.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Writ Petition (MD)No.14602 of 2013

and

M.P.(MD)Nos.1 and 2 of 2013

T.Kala

... Petitioner

Vs.

1.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

2.The Sub Inspector of Police,
Anjugramam Police Station,
Anjugramam,
Kanyakumari.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the second respondent in regard to the impugned report in C.No.P1/15245/13/N.Ref: 210/P/SDO.KK/13 P3/23649/13 dated Nil and quash the same and consequently direct the first respondent to take the complaint of the petitioner dated 11.03.2013 for re-investigation to be done by any other credible officer or agency in regard to Crime No.24 of 2013 dated 12.01.2013 pending on the file of the second respondent for conducting fair



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and proper enquiry and file the final report before the concerned Judicial Magistrate.

For Petitioner : Mr.G.Thalaimutharasu
For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

The petitioner has filed this writ petition to quash the impugned report in C.No.P1/15245/13/N.Ref: 210/P/SDO.KK/13 P3/23649/13 dated Nil and to direct the first respondent to take the complaint of the petitioner dated 11.03.2013 for re-investigation to be done by any other credible officer or agency in regard to Crime No.24 of 2013 dated 12.01.2013 pending on the file of the second respondent for conducting fair and proper enquiry and to file a final report before the concerned Judicial Magistrate.

2.According to the petitioner, the petitioner is the wife of one Dharmaraj, who was working as an employee under one Narayan for loading and unloading tobacco products. On 09.01.2013, when the husband of the petitioner, the said Dharmaraj went for his duty, her son received a phone call at 03.45 p.m., that the said Dharmaraj fell down and he was taken to Vasantham Hospital, Nagercoil and thereafter, shifted to Trivandrum Medical College, on 11.01.2013. During treatment, he died on 12.01.2013 in Trivandrum Medical



College. Thereafter, the petitioner has made a complaint before the second respondent and FIR was registered in Crime No.24 of 2013 under Section 174 of Cr.P.C., dated 12.01.2013.

3.It is stated that as per post mortem report, there is a suspicion in the death of husband of the petitioner, the said Dharmaraj. As per employer, the deceased fell down from the lorry while loading the goods. But it is not possible to cause death when a person fell down from the stationed lorry. Therefore, it creates doubt over the death of the deceased. One of the relative of Narayan, namely Thangapandi, stated that the deceased died due to crush by lorry wheels bearing registration No.TN-41-E-6312. The complaint was dictated by the said Narayan and the same was written by the Sub Inspector of Police and the petitioner signed the same, for that reason, to get her husband body for post mortem in the hospital. The co-employee Selvaraj, driver of the vehicle bearing registration No.TN-41-E-6312 and auto drivers were not examined. Further the son of the deceased received a phone call, when the petitioner was residing within 300 m from the place of occurrence. There is no possibility of death from the fall of 2 ½ feet and the injuries mentioned in the post mortem are also creates suspicion over the death of the deceased. Therefore, on 11.03.2013, the petitioner gave a complaint to the first



respondent and others for re-investigation but the same has not been considered. Hence, the petitioner has filed this petition.

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4.The respondents have filed counter and status report stating that the second respondent had received a complaint from the petitioner on 12.01.2013 and a case in Crime No.24 of 2013 under Section 174 of Cr.P.C., was registered. Thereafter, the case has been investigated. On investigation it was found that on 09.01.2013, at about 04.00 p.m., the husband of the petitioner while unloading tobacco from the lorry bearing registration No.TN-41-E-6312 fell down from the lorry and sustained internal injuries and he was unable to walk. Immediately he was taken to Vasantham Hospital at Nagercoil. Thereafter, he was taken to Trivandrum Medical College on 11.01.2013. Unfortunately he died on 12.01.2013 at about 05.00 p.m., in the said hospital. The deceased fell down from 9 feet height of the lorry and not he was crushed by the lorry. The petitioner came to the Police Station on 12.01.2013 for lodging complaint along with one Suresh and the said complaint was not written by the second respondent. The witnesses co-employee Selvaraj, lorry driver and auto drivers were examined and recorded their statements. As per the investigation of the respondents, the deceased died due to fall from the lorry.



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5.The learned counsel appearing for the petitioner would contend that the Investigation Officer, second respondent has not properly conducted the investigation and the result of the investigation has not been intimated to the petitioner. There is a suspicion in the death of deceased Dharmaraj and there is also suspicion over the investigation of the second respondent and thereby she filed the petition for re-investigation.

6.The learned counsel appearing for the respondents would contend that already the second respondent has conducted fair investigation and examined all the witnesses and filed reports before the concerned authorities stating that the deceased died due to fall from the lorry, while unloading tobacco. Only with a motive to harass the respondents, the petitioner has filed this petition and this petition is liable to be dismissed.

7.Heard the learned counsel appearing for the petitioner and the respondents and perused the materials available on record.

8.The petitioner's main contention is that there is a suspicion over the death of the deceased and the second respondent has not examined the



material witness and in order to suppress the real cause of the death, the second respondent has wantonly omitted to examine the material witness.

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9. The counter and status report filed by the respondents would show that the Investigation Officer went to the place of occurrence on 13.01.2013 and prepared observation mahazer and rough sketch in the presence of witness and also examined them. Thereafter, the Investigation Officer immediately rushed to the Medical College Hospital, Trivandrum and conducted inquest and the same reveals that on 09.01.2013 at about 01.00 p.m., when the deceased was unloading tobacco from the lorry at about 04.00 p.m., he drunk water and sat on the side of the iron bar of the lorry and as he developed head reeling, he fell down from the lorry and sustained injuries and thereafter he was admitted in Vasantham Hospital, Nagercoil and then shifted to Trivandrum Medical Hospital and died on 12.01.2013 at about 05.00 p.m. The post mortem was also conducted by the doctors and the post mortem report also obtained by the Investigation Officer. Further the Investigation Officer examined the employer Narayan, and Suresh who is the close relative of the deceased who had admitted the deceased in Vasantham Hospital and also examined the auto drivers who took the deceased from the place of occurrence and also examined the driver of the lorry bearing registration No.TN-41-E-6312. After



examination of the witness, the Investigation Officer filed a report before the concerned Authorities stating that the death was due to fall of the deceased from the lorry.

10.The main contention of the petitioner is that the second respondent omitted to examine the main witness. But in this case as per records, the Investigation Officer had already examined 11 witnesses including witness who alleged to have not been examined as per the petitioner. Further the petitioner's contention is that there is no chance for death when the deceased fell from 2 ½ feet. In this context, the Investigation Officer clearly stated that the deceased was unloading tobacco from the lorry. He fell down from the lorry of 9 feet and therefore, the report of the second respondent clearly shows that the deceased died due to fall from the lorry. The post mortem report also reveals that the deceased died to injuries sustained by him. The petitioner also failed to produce any documents to prove his contention. There are no grounds and materials to involve the writ jurisdiction of this Court. Therefore, there is no scope for allowing this writ petition as prayed for by the petitioner and this petition is liable to be dismissed.



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P.DHANABAL,J.

Mrn

11. Accordingly this Writ Petition stands dismissed. No Costs.

Consequently connected miscellaneous petitions are closed.

NCC: Yes/No
Index: Yes/No
Internet: Yes/No
Mrn

10.07.2023

To

1. The Superintendent of Police,
Kanyakumari District,
Nagercoil.
2. The Sub Inspector of Police,
Anjugramam Police Station,
Anjugramam,
Kanyakumari.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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