



Crl.R.C.(MD).No.93 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2023

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THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.93 of 2023

V.A.S. Mohammad Ali

... Petitioner/Petitioner/ Defacto
Complainant

Vs.

The State, represented by
The Inspector of Police,
The Railway Police Station,
Madurai.
(Crime No.62 of 2021)

... Respondent/ Respondent/Complainant

PRAYER: This Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records relating to the order dated 08.12.2022 made in Cr.M.P. No.2268 of 2022 on the file of the Judicial Magistrate Court-VI, Madurai, dismissing the petition under Section 173(8) of Cr.P.C.

For Petitioner : Mr. Ajmalkhan, Senior Counsel
for M/s.Ajmal Associates

For Respondent : Mr. Sakthi Kumar.M
Government Advocate (Crl. Side)



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ORDER

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This Criminal Revision Case has been filed to call for the records relating to the order dated 08.12.2022 made in Cr.M.P. no.2268 of 2022 on the file of the Judicial Magistrate Court-VI, Madurai, dismissing the petition under Section 173(8) of Cr.P.C.

2. Facts in brief:

One Sikkandar Arafath who is the son of the petitioner was travelling from Bangalore to Madurai on 06.08.2021 through train along with his three friend. The petitioner received information that the above said person fell down and died, he immediately went to the place, where, his dead body was lying. Suspecting the involvement of his three friends, he lodged a complaint on 08.08.2021 at about 2.00 p.m., that was also registered in Crime No.62 of 2021 under Section 174 of Cr.P.C. Investigation was undertaken and during the course of investigation, it was found that either it was self made accident or suicide. The Final Report was filed dropping further proceedings.



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3. Now seeking reinvestigation, this petitioner has been filed Cr.M.P. No.2268 of 2022 under Section 173(8) of Cr.P.C. stating that he suspecting the nature of death of his son. It was contended before the trial Court that right from the beginning, investigation was undertaken in a prejudiced manner to make it appear it is a self accident or suicide.

4. At the conclusion of the enquiry, the trial Court found that the deceased was involved in illegal activities, since he was in financial problem. So, on the basis of the evidence collected during the course of investigation and on perusal of the records, the trial Court found that there is no suspicion in the death and no further investigation is required.

5. When the matter is taken up for hearing, the learned senior counsel appearing for the petitioner stressed only one point to the effect that even though the case was registered under Section 174(3) of Cr.P.C. as suspicious death, but immediate action that not have been taken by the respondent is the subject matter to enquired by Executive Magistrate under Section 174 of Cr.P.C. He would straight away rely upon the judgment of this Court in ***Manohari Vs. The District Superintendent of Police, Sivagangai District, Sivagangai and others 2018-2-L.W. (Crl.) 522*** wherein the elaborate



procedure has been prescribed by this Court while dealing with the suspicious death and the following guidelines have been issued.

24. In view of the above, this Court proceeds to answer the issue that was raised in this case as follows:

a)The Police on receipt of an information about the suspicious death shall registered an F.I.R under Section 174 of Criminal Procedure Code and thereafter he can proceed to the scene of occurrence and prepare an Inquest Report.

b)When a Police Officer receives an information to the effect that the deceased is lying in a serious condition, he can rush to the scene of occurrence, in order to see if he can save the victim and if in case the victim does not survive he can proceed to prepare the Inquest Report in accordance with Section 174(1) of Cr.P.C, and thereafter register an F.I.R under Section 174 of Cr.P.C. The Inquest Report has to describe the wounds, fractures, bruises and other marks of injuries as are found on the dead body and state in what



manner, or by what weapon or instrument [if any], such marks appear to have been inflicted.

c)The Police Officer shall also prepare a Rough Sketch of the place of occurrence.

d)The Inquest Report and the Rough Sketch shall be prepared in the presence of two or more respectable inhabitants of the neighborhood.

e)The object of the Inquest Proceedings is merely to ascertain whether a person has died under unnatural circumstances or an unnatural death and if so, what is the cause of death. The Inquest Report need not contain details such as how the deceased was assaulted or who assaulted him or under what circumstances he was assaulted and these facts are not within the scope of Inquest Proceedings and they fall within the scope of the investigation to be conducted by the Police.



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f)immediately after the preparation of the Inquest Report in accordance with Section 174(1) of Criminal Procedure Code, the Police shall submit the same to the Executive Magistrate under Section 174(2) in order to enable the Executive Magistrate to hold an independent inquest as contemplated under Section 174(4) of Criminal Procedure Code.

g)The Executive Magistrate on completion of the inquest shall submit a report to the Police and such report shall form part of the investigation conducted by the Police and the Police shall collect details from such report and conduct the investigation accordingly.

h)The power of the Police to investigate is in no way stopped or curtailed or interfered with by the inquest held by the Executive Magistrate and the freedom of the Police to proceed with the investigation will be left untouched.



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i)The Police on the conclusion of the investigation shall file a Final Report under Section 173(2) of Cr.P.C only before the jurisdictional Magistrate and not before the Executive Magistrate. This will apply, in both cases, whether the Final Report is a positive report or is a Closure Report.

j)If in case the Police proceeds to file a Closure Report, the victim shall be entitled to be served with a R.C.S notice in order to enable him to file a protest Petition before the concerned Magistrate.

k)On such protest Petition being filed, the concerned Judicial Magistrate shall act in accordance with law laid down by the Hon'ble Supreme Court in Vinay Tyagi .Vs. Irshad Ali, reported in [2013 (5) SCC 762].

6. After formulating the above said procedures, a copy of the order was also ordered to be sent to the Deputy Inspector General of Police, Chennai and Inspector General of Police in various regions to instruct the Officers in this regard.



7. Now the grievance of the petitioner is that none of the above said procedures have been followed. The enquiry to be undertaken by the Executive Magistrate is independent of the enquiry or reinvestigation undertaken by the Police. Both are not mutually exclusive but both are inclusive. But this important aspect was not considered by the trial Court. According to him, it is sufficient to sent the enquiry to the jurisdictional Executive Magistrate. The jurisdictional Executive Magistrate may be directed to make independent enquiry as contemplated in the above said judgment.

8. On going through the entire CD file, it is found that the above said procedures of submitting the records to the Executive Magistrate for making independent inquest was not followed. On the sole ground, this revision is liable to be allowed and the entire case files are directed to handover to the Executive Magistrate, Vadipatti. The Tahsildar, Vadipatti (Executive Magistrate) is directed to take enquiry as per the guidelines set out above and conclude the proceedings within two months.

9. It is made clear that it may not be necessary for Executive Magistrate to exhume the body since occurrence took place on 08.08.2021,



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now we are in 2023.

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10. With the above said directions, this Criminal Revision Case stands allowed accordingly.

22.02.2023

NCC :Yes / No
Index : Yes / No
Internet : Yes / No
Indu

To

- 1.The Inspector of Police,
The Railway Police Station,
Madurai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAAN,J.

Indu

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