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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 25/04/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.OP(MD)No.4870 of 2023

and

Cr1.MP(MD)No.4301 of 2023

Sethu : Petitioner
Vs.

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

2.The Inspector of Police,
Vadamadurai Police Station,
Dindigul District.

3.The Inspector of Police,
Crime Branch,
Criminal Investigation Department,
Dindigul.

: Respondents

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to direct the 1st respondent to withdraw the investigation in Crime No. 950 of 2020, dated 19/06/2020 on the file of the 2nd respondent and entrust the investigation to the 3rd respondent under the supervision of any other Senior Level independent Police official and pass such further or other orders.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor

**ORDER**

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This criminal original petition is filed seeking to direct the 1st respondent to withdraw the investigation in Crime No.950 of 2020, dated 19/06/2020 on the file of the 2nd respondent and entrust the investigation to the 3rd respondent under the supervision of any other senior level independent police official.

2.The facts in brief:-

It is a case under section 174 Cr.P.C. The de-facto complainant, who is the petitioner herein made a complaint stating that his second daughter namely M.S.Prema was married to one S.Ramesh Kumar some nine years back. They had two children namely Kasini and Alagu Nachi. The above said S.Ramesh Kumar was working as Junior Engineer in Ayyalur Electricity Board. Right from the marriage, his daughter was not properly treated and the above said Ramesh Kumar used to pick up frequent quarrel. They used to make a compromise and that was continued till her death. Some two years prior to the occurrence, because of the trouble made by Ramesh Kumar, the deceased lodged a complaint with the Nilakottai All



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Women Police Station. In the enquiry, they advised them to set up a separate house. So they started to live separately at Kurumpatti Village. Again, trouble was created. So the deceased came to his house along with children some eight months prior to the occurrence. Later one month prior to the occurrence, without informing him the deceased and the children were taken by Ramesh Kumar. On 19/06/2020 at about 12.45 pm, his elder son-in-law namely Balasubramani informed him that Prema, died and her body is kept in mortuary. Doubting and entertaining suspicion over the death, the complaint was given making allegation against Ramesh Kumar and his parents, brother, sister, etc.

3. On the basis of the complaint given by the petitioner, investigation was undertaken and during the course of investigation, inquest was done and found that it is a case of suicide and none was responsible for the above said suicide. So final report is prepared as 'Action Dropped' and submitted before the concerned Magistrate on 21/02/2021.



4. Now challenging the above said final report, this petition has been filed seeking transfer of investigation.

5. Since already investigation is over and final report has been filed as '**Action Dropped**', whether notice has been served upon the petitioner is not clear on record.

6. The CD file has been called for and perused.

7. Perusal of the CD file, it is seen that even though enquiry was conducted by the Investigating Officer, no proper procedure as stated in **Manohari's** case has been followed by the Investigating Officer and by referring the matter to the Executive Magistrate for making independent enquiry. Without adopting the above said procedure, now the final report has been filed.

8. Now the only point, which arises for consideration is whether any ground has been made out by the petitioner to transfer the investigation. Transfer of investigation at the final stage, unless strong case has been made out



cannot be ordered. Suspicion that has been made by the petitioner are all the matters for consideration by the Investigating Officer. The exact reason for the above said suicide has not been found out so far. So we need not concentrate much upon the factual issues, since the investigation cannot be treated as over, as some sort of legal ground has been made out, on the basis of the guidelines issued by this court in the case of **Manohari Vs. District Superintendent of Police, Sivagangai District and others [2018(3) MWN (Cr.) 143]**.

9.The guidelines may be summarized as follows:-

"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.



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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



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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.

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.



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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.

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].*



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10. Perusal of the CD file shows that enquiry has not been undertaken by the jurisdictional Executive Magistrate. As per section 174(4) of the Criminal Procedure, steps have to be taken by the Investigating Officer. So, I am of the considered view that a direction can be issued to the Investigating officer to follow the guidelines that have imposed in the case of **Manohari Vs. District Superintendent of Police**. The above said investigation process must be completed within a period of three months from the date of receipt of a copy of this order. If the petitioner is aggrieved over the outcome of the investigation process, he can work out his remedy through appropriate proceedings. Further during the course of enquiry by the Executive Magistrate, if any new facts came to light, the investigation must be undertaken at this direction and additional final report must be filed. The above said process shall be completed within a period of three months from the date of receipt of a copy of this order.



10

11. With the above said directions, this criminal petition stands disposed of. Consequently connected Miscellaneous Petition is closed.

25/04/2023

Index: Yes/No
Internet: Yes/No
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To,
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- 1.The Superintendent of Police,
Dindigul District,
Dindigul.
- 2.The Inspector of Police,
Vadamadurai Police Station,
Dindigul District.
- 3.The Inspector of Police,
Crime Branch,
Criminal Investigation Department,
Dindigul.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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12

G.ILANGOVAN, J

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