



CrI.O.P.(MD)No.9675 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2023

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

CrI.O.P.(MD)No.9675 of 2020

T.Viju

... Petitioner

Vs.

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

2.The Inspector of Police,
Puthukadai Police Station,
Kanyakumari District.
(Crime No.315 of 2019)

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the first respondent to transfer the man missing case of the petitioner's brother Vinu in Crime No.315 of 2019 on the file of the second respondent to some other investigating agency having competence to deal with the matter.

For Petitioner : Mr.C.K.M.Appaji

For Respondents : Mr.R.M.Anbunithi,
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed to direct the first respondent to transfer the man missing case of the petitioner's brother Vinu in Crime No.315 of 2019 on the file of the second respondent to some other investigating agency.

2. According to the petitioner, his brother namely Vinu, aged about 37 years, was missing. On 18.11.2019 at 07.00 pm., one Godwin, the resident of nearby village came to the petitioner's house and took his brother to Thengapattanam fishing harbour to proceed towards boat fishing. Usually, the fishermen involved in deep sea fishing would come back only after three or four weeks and hence, the petitioner did not suspect anything. On 01.12.2019 at 10.30 pm., the said Godwin called the petitioner over phone and informed that he was in the fishing boat travelling near Cochin and the bag, cellphone and chapels of the petitioner's brother were lying in the fishing boat and asked the petitioner to clarify as to whether the petitioner's brother had reached the house. Thereafter, the petitioner enquired about his brother with the family members and made search in the houses of their relatives and



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friends. But all the efforts went on vain. Thereafter, on 03.12.2019 the petitioner has preferred a complaint before the second respondent requesting to trace out the petitioner's brother. Based on the complaint, a case in Crime No.315 of 2019 was registered and thereafter, no steps have been taken. Hence, the petitioner filed a petition in Crl.O.P. (MD)No.1511 of 2020 seeking direction. Even after filing of the above said petition, the second respondent has not taken any action. An order was passed in the above said petition on 14.02.2022 by directing the second respondent to complete the investigation within 12 weeks. Despite the order of this Court, the second respondent has not taken any steps. Hence, the petitioner filed the present petition to transfer the investigation from the file of the second respondent to some other investigating agency.

3.The second respondent filed status report stating that after registering the above said case, the second respondent enquired the matter and they examined 16 witnesses including the said Godwin, Srikumaran, Milton and Gousikan, who are all travelled in the boat. On enquiry it revealed that the missing person did not travel in the boat.



There are possibilities that the missing person might have gone somewhere with somebody, before the boat went for fishing. The second respondent also collected CDR against five mobile numbers including the petitioner's number. But no information received regarding missing person. Further, the missing person dialed his last call to his parents and told them that do not search him, do not call him again and he will go to Chennai. This conversation were known from his friends who were in the boat. Hence, the missing person may be somewhere in Chennai. Further, the second respondent had taken the said Godwin into custody and enquired him properly. However, no suspicious words arose in his statements. The petitioner's father was examined. But, the petitioner's mother and siblings were not examined so far. When the respondent police called them for enquiry, they were not co-operated for the enquiry till now. The respondent police also sent CDR requisition to cyber cell to trace out his location by using his IMEI number. The respondent police has taken enough steps to produce the missing person.

4.The learned counsel appearing for the petitioner would contend that the case is pending from the year 2019 and the second respondent



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has not produced the brother of the petitioner. Already this Court also directed the respondent police to complete the investigation within 12 weeks by an order dated 14.02.2022. But still the case is pending and missing person has not been produced by them. Therefore, the investigation has to be transferred from the file of second respondent to the some other agency to have effective investigation.

5.The learned Additional Public Prosecutor appearing for the respondents would contend that the respondent police have examined 16 witnesses and still they are searching the missing person. On enquiry, no suspicious words arose in the statements of the said Godwin. The mother and sibling of the petitioner were not co-operated for the enquiry. They are also taking steps to get CDR particulars to trace out the missing person and they are taking enough steps to trace out the missing person. Therefore, transfer of investigation, at this stage, is not necessary and the second respondent also filed status report to that effect.

6.Heard both sides and perused the materials available in the records.

7.On perusal of records shows that the complaint was lodged in the



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year 2019 and thereafter, the second respondent examined 16 witnesses and still investigating the case. According to the second respondent, the close relatives of the petitioner are not co-operated with the investigation agency. However, they are taking enough steps to trace out the missing person. Under these circumstances, considering the date of FIR and considering the facts and circumstances of the case, it is appropriate to direct the first respondent to monitor the investigation of the case. Accordingly, the first respondent is directed to monitor the investigation of this case and to file status report before this Court once in two months and the second respondent also directed to complete the investigation under the supervision of the first respondent, within a period of six months from the date of receipt of a copy of this order.

8. With the above observations and directions, this criminal original petition is disposed of.

14.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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At Nagercoil.
 - 2.The Inspector of Police,
Puthukadai Police Station,
Kanyakumari District.
 - 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL,J.

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