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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17/04/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.OP (MD) No.11387 of 2022

S.Y.John : Petitioner

Vs.

1.The Commissioner of Police,
Madurai City,
Madurai.

2.The Inspector of Police,
Subramaniapuram Police Station,
Madurai City,
Madurai District.

3.The Deputy Superintendent of Police,
CBCID,
Madurai.

: Respondents/Complainants

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to transfer the investigation in Crime No.218 of 2022 pending on the file of the 2nd respondent to the file of the 3rd respondent with a direction to investigate into the matter and file charge sheet in accordance with law.

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

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor

**O R D E R**

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This criminal original petition is filed seeking to transfer the investigation in Crime No.218 of 2022 pending on the file of the 2nd respondent to the file of the 3rd respondent with a direction to investigate into the matter and file charge sheet in accordance with law.

2.The facts in brief:-

The deceased Jefri Chals, who is the younger son of the complainant was studying in Vel's University, Chennai. His elder son is studying MBA 2nd year in the same College. On 14/03/2022, both of them came to Madurai on the eve of Easter celebration and they have to return back to Chennai, on 19/04/2022. On 19/04/2022, the deceased went to see his friends. Till the evening, he did not return. So the mother called the Jefri Chals and he informed that he will return to the house soon. At about 04.30 pm, the girl friend of the deceased called his elder son that the Jefri Chals is in unconscious stage in OYO Lodge. The complainant and the first son went to the place of occurrence. At that time, it was informed that the deceased was taken to Nithila Hospital.



They went to Nithila Hospital. Again they were informed that he was taken to Mercy Hospital, Madurai. They went to Mercy Hospital, where they were informed that Jefri Chals already died.

3. Based upon the above said occurrence, he lodged a complaint, which was registered in Crime No.218 of 2022 under section 174 of the Criminal Procedure Code. Investigation was undertaken. Pending investigation, this petition has been filed seeking transfer of investigation on the ground that there is suspicion in the death of his son. It is stated that the deceased was not addicted to any bad habit and there was no reason for him to commit suicide.

4. Doubting the very manner of investigation, this petition has been filed making several suspicious grounds, which are detailed in the petition.

5. Heard both sides.

6. CD file has been called for and the Investigating Officer was also directed to be present, so also the



petitioner was also present. All of them enquired by me in the open court.

7.It is unfortunate to note that the deceased was aged only 21 years and undergoing BE Graduation. On that occurrence date, he came to Madurai to celebrate Easter along with his family members. When he was about to return to the college, the unfortunate happened.

8.According to the girl namely xxxxx, she alleged to have present along with the deceased at the time of suicide in the room. The statement from the Room Boy and the Manager have been recorded during the course of investigation. Wherein, it has been stated that on the particular date of occurrence and time, they heard the fighting noise between the deceased and the above said girl. After some-time, the above said occurrence was informed and later, other things followed.

9.In the statement of the above said girl, she has stated that the deceased was in depressed mind over some occurrence and difference of opinion between himself and the parents. She pacified him. But in vain. When he was



10. 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 is not at all over. 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].

11.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.

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



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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



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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.

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].*

12.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 direction



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can be issued to the Investigating officer to follow the guidelines that have issued in the case of **Manohari Vs. District Superintendent of Police.** Let the investigation be supervised by the Assistant Commissioner of Police, Madurai City. 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.

13. With the above said direction, this criminal original petition stands **disposed of.**

17/04/2023

Index: Yes/No
Internet: Yes/No
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To,

- 1.The Commissioner of Police,
Madurai City,
Madurai.
- 2.The Inspector of Police,
Subramaniapuram Police Station,
Madurai City,
Madurai District.
- 3.The Deputy Superintendent of Police,
CBCID,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Assistant Commissioner of Police,
Madurai City.



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G. ILANGO VAN, J

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Crl.OP (MD) No.11387 of 2022

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