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CrI.O.P.(MD)No.16421 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CrI.O.P.(MD) No.16421 of 2022

and

CrI.M.P(MD).No.10926 of 2022

A.Solaiappan

... Petitioner

Vs.

1.The Additional Director General of Police,
Crime Branch Crime Investigation Department (CBCID),
No.220, Pantheon Road,
Egmore,
Chennai-600 008.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Virudhunagar District.

3.The Inspector of Police,
Irukkangudi Police Station,
Virudhunagar District.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in connection with S.C.No.184 of 2018 on



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the file of the Assistant Sessions Court, Sattur in Crime No.69 of 2016 on the file of the third respondent with regard to the final report filed by the third respondent and set aside the same and issue a direction to the first respondent to do re-investigation in the case in crime No.69 of 2016 on the file of the third respondent and to file a fresh final report before the Assistant Sessions Court, Sattur within the time stipulated by this Court.

For petitioner : Mr.R.Alagumani
For R1 : Mr.Manikandan
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to set a side S.C.No.184 of 2018 on the file of the Assistant Sessions Court, Sattur and also issue a direction to the first respondent to do re-investigation in the case in crime No.69 of 2016 on the file of the third respondent and to file a fresh final report before the Assistant Sessions Court, Sattur.

2. The case of the prosecution is that on 30.03.2016, at about 08.00 p.m, petitioner's son was left from the house and he informed his parents that he was going to switch on the village common motor. Thereafter, one Sevugaperumal, S/o.Alagan came to the house of the petitioner and informed him that his son went to Chennai as acting driver. The



petitioner's son was not returned to his house. Therefore, the petitioner and his relatives searched him at several places in their Village, but they couldn't found him. In the meanwhile, on 01.04.2016, the petitioner came to know through his brother, namely, Muthuraman that one body was floating in the well. Immediately, the petitioner and his relatives rushed to the said well and the petitioner identified that the body, which floated in the well was his son, namely, Kanan @ Solairaj and he has also noticed the cut injuries in all over the body. Thereafter, the petitioner lodged a complaint before the third respondent police and the same was registered under Section 174 Cr.P.C. However, proper investigation was not conducted by the third respondent police. Therefore, the petitioner has filed CrI.O.P(MD).No.15856 of 2016, seeking transfer of investigation from the third respondent to CBCID and this Court on 28.09.2016 directed the Superintendent of Police, Virudhunagar, to monitor the investigation and file a final report before the concerned Judicial Magistrate Court within a period of six months from the date of receipt a copy of that order. Thereafter, the final report has been filed before the concerned Court. Challenging the final report filed by the respondent police, the present petition has been filed.



3. The learned counsel for the petitioner submitted that the petitioner's son is the best swimmer and it is impossible for drowning in the well water and further, the petitioner's son have affair with one Krishna Kumari. On the painful day, as per 161 statement of A1, the petitioner's son and A1 taking bath in the nearest well and tried to contact the said Krishna Kumari over phone and the same was prevented by A1 and thereby, the petitioner's son slipped in the well and died. The said statement was recorded by the respondent police by implicating A1 in the charge sheet. However, the third respondent secured the cell phone number of the said Krishna Kumari and even then, no proper investigation was not conducted by using the call details and the said Krishna Kumari was also not investigated by the respondent police. The petitioner strongly believes that there may be a love affair, due to which, his son was murdered by some other persons.

4. The allegation against A2 and A3 is that they requested A1 not to reveal anything to anybody and thereby they implicated as a co-accused. If the final report is continued there may not be chances to convict and real offender may not be identified. Hence, this Court may issue a direction for reinvestigation.



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5. The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that initially the case registered for the offence under Section 174 Cr.P.C for the death of the petitioner's son, being the investigation is not properly conducted by the third respondent, petitioner has filed Crl.O.P(MD).No.15856 of 2016 seeking transfer of investigation from the third respondent to CBCID and this Court on 28.09.2016 directed the Superintendent of Police, Virudhunagar, to monitor the investigation and file a final report before the concerned Judicial Magistrate Court. As per the direction of this Court, after completing the investigation, the respondent police filed the final report before the concerned Court.

6. Heard both sides and perused the materials available on record.

7. The date of occurrence is 30.03.2016 and after a lapse of 8 years, it is impossible to reinvestigate the case. Though the petitioner claims that there was a relationship between his son and one Krishna Kumari, no evidence was produced either before the respondent police or before this Court for order for re-invesigation. In the absence of any evidence, harassing a woman by implicating her in the criminal case, is not a sustainable one.



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8. In view of the above discussions, this Court is not inclined to allow this petition. Accordingly, this Criminal Original Petition is dismissed. However, it is open to the petitioner, if any materials available with him, to file a appropriate petition and to workout his remedy before the trial Court. Consequently, the connected miscellaneous petition is closed.

28.02.2024

Index : Yes/No
Internet : Yes/No
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To

1. Inspector of Police,
Thallakulam All Women Police Station,
Madurai City.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI. J.

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