

A.Moideen Vs. State Rep by

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Court : Chennai

Decided On : Jun-18-2014

Judge : T.S.Sivagnanam

Appellant : A.Moideen

Respondent : State Rep by

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED:

18. 06.2014 CORAM THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
Crl.O.P.No.8679 of 2014 A.Moideen ...Petitioner vs. 1.State rep by The
Superintendent of Police Office of the Superintendent of Police Kancheepuram
District. 2.The Inspector of Police S-10, Pallikaranai Police Station Chennai.
...Respondents Criminal Original Petition filed under Section 482 of the Criminal
Procedure Code praying to issue direction to transfer the investigation to any other
competent agency in Crime No.70 of 2014 on the file of the 2nd respondent police.
For Petitioner : Mr.M.K.Bhoopathy Rajan For Respondents : Mr.C.Emalias, A.P.P.

ORDER

In this petition, the petitioner seeks for a direction to transfer the investigation to any other competent agency to investigate Cr.No.70 of 2014 on the file of the second respondent-police.

2. The petitioner's son, viz., Mohammed Rahim, was aged about 30 years. He got married and has three children. Owing to some psychiatric disorder, he was under the treatment of a Psychiatrist. It is stated that as per the advice of the doctor, the petitioner's son was admitted to Evergreen Centre at Chitlapakkam for treatment. It appears that the said Centre is a Rehabilitation Centre for drug addicts and other mentally instable persons.

3. The petitioner completed the formalities and his son was admitted in the said Centre and it is further stated that on 20.01.2014, the petitioner spoke to his son about 11.00 p.m. enquiring about his health and on the next day, about 5.45 a.m., the petitioner states that he received a call from the said Centre stating that his son was in a serious condition. The petitioner rushed to the nearby hospital and found that the his son was dead. The petitioner, having noticed that there were certain external injuries on his son's body, informed the police that he suspects some unnatural cause for his death. As a consequence, FIR was registered by the respondent police in Cr.No.70/2014 under Section 174 Cr.P.C. Thereafter, it appears that the RDO also conducted inquest and the petitioner's son's body was sent for post mortem and post mortem report has been obtained, which has been filed in the typed set of papers. From the report, it is seen that the post mortem was conducted and concluded on 21.01.2014 and the opinion has been reserved pending qualitative and quantitative analysis of drugs, alcohol, poisoning and other chemicals.

4. Pursuant to the earlier directions issued by this Court, the respondent-police has filed the status report. On a perusal of the said report, it is seen that the second respondent police registered a case under Section 174 Cr.P.C., and examined five Directors and a staff member of the said Centre. Apart from that, the second respondent is said to have examined two doctors who conducted post mortem. The second respondent would state that since the Analysis Report is still pending, they have addressed the Director, Forensic Science Department to send the final opinion and only after getting the final opinion, they will be able to proceed further.

5. After hearing the learned counsel for the petitioner and the learned Additional Public Prosecutor and perusing the materials placed on record as well as the status report filed by the second respondent police, this Court is of the view that the second respondent has not diligently proceeded with the investigation of the case.

6. Admittedly, from the post mortem report, it is seen that there were following three external injuries:

1. Linear abrasion with contusion present on the back (10 x = cm) 2. Multiple abrasion (3 x = cm) seen on the back 3. Linear abrasion with contusion (11 x = cm) present on the left arm. From the said report, it is also seen that the internal organs are congested.

7. The qualitative and quantitative analysis are pending with the Forensic Science Department in respect of the fluid which has been extracted from the stomach of the deceased. The body was found to be in a supine position with the hands on the side.

8. In the light of these observations made in the post mortem report, the second respondent police should have investigated further into the matter, pending receipt of the Analysis Report. Unless that is done, it will not instill confidence in the mind of the de facto complainant/father who had left his son under treatment for certain psychiatric problem.

9. The deceased has left behind his three minor children and wife. It is a normal principle that the investigation should instill confidence in the mind of the public as well as the de facto complainant. The investigation should be fair, proper and expeditious. Furthermore, in the typed set, photographs of the deceased have been produced from which, it is evident that there are several external injuries in the body of the deceased. This Court is convinced that the petitioner has made out a case for transfer.

10. After this Court expressed the opinion, the learned Additional Public Prosecutor submitted that the first respondent, viz., the Superintendent of Police,

Kancheepuram District, may be directed to depute an efficient Officer in the cadre of Deputy Superintendent of Police.

11. In the light of the above, this petition is disposed of by directing the first respondent to nominate an efficient Officer in the cadre of Deputy Superintendent of Police to investigate into the matter.

12. Accordingly, the second respondent police is directed to forthwith transfer all the papers to the office of the Superintendent of Police, Kancheepuram, which shall be handed over to the Deputy Superintendent of Police, who is to be nominated. In this regard, orders shall be passed by the first respondent within a period of two weeks from the date of receipt of a copy of this order. This Criminal Original Petition is disposed of with the above direction. 18.06.2014 Index:Yes/No Internet:Yes/No To 1.The Superintendent of Police Office of the Superintendent of Police Kancheepuram District. 2.The Inspector of Police S-10, Pallikaranai Police Station Chennai. 3.The Public Prosecutor, High Court, Madras. T.S.SIVAGNANAM, J.

gms Crl.O.P.No.8679 of 2014 18.06.2014

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