

V.Kalaivani Vs. the State

V.Kalaivani Vs. the State

SooperKanoon Citation : sooperkanoon.com/1168260

Court : Chennai

Decided On : Jun-25-2014

Judge : The Hon'Ble Ms. Justice K.B.K.Vasuki

Appellant : V.Kalaivani

Respondent : The State

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED:

25. 06.2014 CORAM THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
Crl.O.P.No.5525 of 2014 V.Kalaivani ..Petitioner -Vs- 1.The State rep by The
Superintendent of Police Cuddalore District 2.The Deputy Superintendent of Police
Kattumannar Koil Circle Cuddalore District 3.The Inspector of Police Puthur Police
Station Cuddalore ..Respondents Petition filed under Section 482 of Cr.P.C.,
praying to issue direction to the respondent to further investigate the matter on the
basis of the petitioner's representation dated 15.02.2014 in Crime No.109/2012 on
the file of Inspector of Police, T.Puthur Police Station, Cuddalore District.

ORDER

In this petition, filed under Section 482 of Cr.P.C., the petitioner seeks for a
direction to the respondent police to further investigate the matter based on the
petitioners representation dated 15.02.2014 in respect of Crime No.109 of 2012 on
the file of T.Pudur Police Station, Cuddalore District. The said F.I.R., in Crime

No.109/2012 was registered on 28.06.2012, in which, the petitioner, V.Kalaivani, wife of Viswanathan has been arrayed as 2nd accused. The alleged offences are under Sections 147, 148, 452, 294(b), 427, 324, 307 and 302 IPC. The representation was submitted by the Federation of Panchayat Presidents stating that the petitioner, who was functioning as a President, Chettikulam Panchayat has been falsely implicated in the said criminal case and therefore, the matter has to be further investigated, which will ultimately lead to the deletion of petitioners name.

2. Mr.R.Sankara Subbu, learned counsel for the petitioner, after reiterating the submissions made in this petition and giving all factual details as mentioned therein stated that the complainant Ramesh is the son of the deceased and has made false allegations against the petitioner and other supporters and implicated them in the offences and the statement of the complaint is not his own and he was dictated by Nagaraj, who is having political influence. It is further submitted that one Jeevanantham, who was the Deputy Chairman of the Federation of Panchayat Presidents filed Crl.O.P.No.23312 of 2012 before this Court for a direction to remove the name of the petitioner from the array of the accused in Crime No.109/2012 and that the said Crl.O.P, was disposed of on 11.10.2012 with a direction to the Deputy Superintendent of Police concerned to supervise the investigation and file final report expeditiously. It is in this regard, a charge sheet has been laid and the petitioner is arrayed as third accused for the offence under Section 302 IPC.

3. The learned counsel for the petitioner placed reliance on the decision of the Honourable Supreme Court in the case of Kashmiri Devi Vs. Delhi Administration and another reported in AIR1988 Supreme Court 1323 and submitted that this Court is empowered to issue proper directions for conducting proper investigation in the matter.

4. Reliance was placed on the decision of the Honourable Supreme Court in the case of Punjab and Haryana High Court Bar Association Chandigarh through its Secretary Vs. State of Punjab and others reported in AIR1994 Supreme Court 1023, wherein the Honourable Supreme Court directed the CBI to take up

investigation even though the police had filed the charge sheet.

5. The learned counsel for the petitioner further relied upon the decision of the Honourable Supreme Court in the case of Rubabbuddin Sheikh V. State of Gujarat and Others reported in AIR2010 Supreme Court 3175 and submitted that when there are higher officials of the State involved in the crime, investigation was to proceed in the right direction.

6. Heard Mr.C.Emalias, learned Additional Public Prosecutor for the respondents.

7. The petitioner has sought for a direction to conduct further investigation in Crime No.109 of 2012, in which the petitioner was shown as third accused. The petitioner would state that she has been falsely implicated based upon the statement given by the complainant, which is not on his own volition, but has been dictated by some body else. This has been not properly investigated into and the petitioner is made as an accused. Firstly, it is stated that investigation was over and charge sheet was laid on 08.11.2012; the petitioner has been arrayed as third accused for offences under Section 302 IPC. The entire case of the petitioner rests on the complaint given by Ramesh, who is the son of the deceased. The learned counsel for the petitioner referred to the statement of the Investigating Officer.

8. This Court is of the view that based on the ground raised by the learned counsel for the petitioner, a positive direction to further investigate into the matter cannot be issued.

9. The Honourable Supreme Court in the case of Kashmiri Devi (supra) was a case relating to allegations of murder by torture against the police and the haphazard manner in which the investigation against the accused police officers was investigated with a view to shield guilty members of the Delhi police. The Honble Supreme Court, after perusing the observations made by the learned Sessions Judge, held that in the interest of justice, it is necessary to get a fresh investigation done through an independent authority, so that truth must be known.

10. In the case of Punjab and Haryana High Court Bar Association, Chandigarh through its Secretary Vs. State of Punjab and others (supra), a practising advocate, his wife and child aged about 2 years were abducted and murdered. The Honble Supreme Court observed that the investigation having been completed by the police and charge sheet laid, it is not for the Supreme Court ordinarily, to reopen the investigation, but in order to instill confidence in the public mind, it is necessary to have a fresh investigation done by the Specialized Agency like the Central Bureau of Investigation (CBI). For issuing such a direction, the Honble Supreme Court gave elaborate reasons to bring it under the rarest and rare case, where such a direction could be issued.

11. In the case relating to Rubabbuddin Sheikh V. State of Gujarat and Others (supra), a writ petition was filed seeking for investigation by CBI in the case of fake encounter of the brother of the writ petitioner by the Gujarat Police Authorities. The facts of the said case as dealt with by the Honble Supreme Court very elaborately, led to the issuance of direction to the CBI to conduct further investigation when High Police Officials are involved and some of them have already been in custody, stating that it would not be sufficient to instill confidence in the minds of the victims as well as of the public that still the State Police Authorities would be allowed to continue with the investigation when allegations and offences were mostly against them.

12. All the citations cited by the learned counsel for the petitioner are clearly distinguishable on the facts of the case. In extraordinary circumstances, the Honble Supreme Court directed further investigation or transferred the investigation to the Central Agency. In fact, in the decision in the case of Punjab and Haryana High Court Bar Association Chandigarh through its Secretary Vs. State of Punjab and others (supra), the Honble Supreme Court pointed out that the investigation have been completed by the police and charge sheet submitted to the Court, it is not for the Supreme Court to ordinarily reopen the investigation, therefore, unless the extraordinary circumstances prevail, the question of issuing a direction for further investigation or transfer of investigation does not arise.

13. In the circumstances, the petitioner has failed to make out any case. Accordingly, the Criminal O.P., fails and the same is dismissed. 25.6.2014
Index:Yes/No nvsri T.S.SIVAGNANAM, J.

nvsri Order in Crl.O.P.No.5525 of 2014 25.6.2014

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com