

(2014) 12 MAD CK 0277

In the Madras High Court

Case No : Writ Petition No. 9681 of 2010

K. Thilageeswaran

APPELLANT

Vs

Central Bureau of Investigation

RESPONDENT

Date of Decision : 17-12-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173(8), 227, 311, 319, 358

Citation : (2014) 12 MAD CK 0277

Hon'ble Judges : Sanjay Kishan Kaul, C.J;M. Sathyanarayanan, J

Bench : Division Bench

Judgement

Sanjay Kishan Kaul, C.J.—The petitioner, an advocate, has filed the present Public Interest Litigation, arising from the allegation of barbaric killing of a couple, who had an inter-caste marriage. The marriage was registered. The allegation is that because of they being from different castes, they were done to death.

2. It is not necessary nor proper for us to get into anymore detailed facts other than to state that an independent investigation by the C.B.I. was pleaded and acceded to. The C.B.I. carried out the investigation, filed charge sheet and the case has now been committed to trial.

3. The reason why the present petition has been filed, as urged by the learned counsel for the petitioner, is that he is still dissatisfied with the investigation. It is his say that a Special Investigation Team (S.I.T.) should be constituted for purposes of carrying out further investigation and for that purpose, he relies upon the Full Bench judgment of this Court in R. Sankarasubbu Vs. The Commissioner of Police Egmore Chennai and The Inspector of Police R-5 Tirumangalam Police Station Chennai, . It is submitted that the present case is an exceptional one, where such an intervention is required even though the investigation has been carried out by C.B.I.

4. Insofar as R.Sankarasubbu"s case (supra) is concerned, the question which

arose was whether that particular case was one of murder or suicide. The C.B.I. also concluded that it was a case of suicide and thus, no charge sheet could be filed. It is, in those circumstances that further investigation was directed.

5. On a query as to what are the infirmities with the investigation which called for further investigation, learned counsel for the petitioner pleads that firstly two accused have been added unnecessarily. He, however, cannot contend that they be discharged by this Court in the present proceedings. His submission in substance is that the distorted statement has been recorded of the aunt and the brother of the victim, Murugesan and the step-mother of the victim has not even got her statement recorded. Thus, what he really seeks is that a fresh statement should be recorded of the two persons in respect of whom he alleges that a distorted statement has been recorded and that the statement of the step-mother should also be recorded, which would throw direct light on the matter in question.

6. As noticed aforesaid, we are confronted with a case where committal proceedings have taken place. We would only like to draw attention to the provisions of Section 173(8) of the Code of Criminal Procedure, 1973 (in short "Cr.P.C.") dealing with the report of the police officer on completion of investigation, which makes it clear that nothing precludes further investigation in respect of the offence after the report has been forwarded to the Magistrate. Not only that, under Section 311 of the Cr.P.C., there is power to summon material witness or examine persons present and in terms of Section 319 of Cr.P.C., there is power to proceed against other persons appearing to be guilty of offence. These provisions will more than take care of the situation pleaded before us by the learned counsel for the petitioner. If any accused feels that there is no material against him, he can plead discharge in view of the provisions of Section 227 of Cr.P.C.

7. We are, thus, of the view that all these aspects are for the Sessions Court to examine, who is in seisin of the dispute. The disturbing aspect is that the incident is of the year 2003 and the trial has not proceeded for the last 11 years. Such delay causes disappearance of material evidence prejudicing the case of the prosecution.

8. We are, thus, of the view that a direction is liable to be passed for the Sessions Court, being Principal Sessions Judge, Cuddalore, to proceed to expeditious trial in S.C. No.185 of 2010, almost on a day-today basis considering the nature of the crime. The aspects, which have been urged by the learned counsel for the petitioner can be examined by the Sessions Court in the conspectus of the provisions we have referred to aforesaid. The Sessions Court should endeavour to conclude the trial within one year from the date of receipt of this order.

9. In the end, the learned counsel for the petitioner states that the amount, which is liable to be disbursed to the immediate legal heir of the deceased being

the father, as per G.O. Ms.833, Public (Law and Order) Department, dated 22.05.1998, as per the schedule in Annexure I of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1995, as amended upto date, has still not been paid. The learned counsel states that for these amounts, grants are received from the Central Government.

10. Learned Government Pleader states that this amount has to be disbursed and shall be disbursed within a maximum period of one month of this order.

11. In so far as some people alleged to have been detained and then found not involved are concerned, being A-16, A-17, A-18 and A-19, in re the compensation, the same would have to be in accordance with Section 358 of the Cr.P.C.

12. Writ Petition stands disposed of with the aforesaid directions. No costs.