

(1990) 07 MAD CK 0120

In the Madras High Court

Case No : Writ Petition No. 8762 of 1987

Saroja

APPELLANT

Vs

State of Tamil Nadu and others

RESPONDENT

Date of Decision : 11-07-1990

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154
Penal Code, 1860 (IPC) — Section 302

Citation : (1991) CriLJ 755 : (1993) 1 MLJ 440

Hon'ble Judges : J. Kanakaraj, J

Bench : Single Bench

Advocate : T.M. Vasudevan, for the Appellant; M. Muthappa, Government Advocate and B. Sriramulu, for the Respondent

Judgement

1. The petitioner was married to one Arumugham in the year 1971. The petitioner has a son aged 11 years, two, daughters aged 8 and 5 years respectively. It is stated that the petitioner was working under the 7th respondent on daily wages of Rs. 22/-. On 2-3-1986, the petitioner was told that her husband had sustained serious injuries on account of a fall in the premises of the 6th respondent. The petitioner rushed to the spot and found that her husband was in a serious condition. She and others had taken her husband to the Stanley Hospital and on the morning of 3-3-1986, her husband passed away.

2. It is the case of the petitioner that her husband had been murdered and her complaint to the Police had not been properly investigated. She had not been informed about the findings of the investigation as required u/S. 154(2) Cr.P.C. It is under these circumstances, she approached the Tamil Nadu State Legal Aid and Advice Board as a result of which, the writ petition has been filed. The petitioner seeks for a writ mandamus to direct the, 5th respondent herein viz., Central Bureau of Investigation, Madras-6 to conduct the investigation into the death of the, petitioner's husband.

3. On notice of motion, Mr. B. Sriramulu, learned counsel appearing for the 5th

respondent places before me the proceedings of the Department of Personnel, Cabinet Secretariat, Government of India, dated 5-6-1972. The following passage in the said proceedings are relevant :

"It may be seen that the CBI is a small specialised Central Police Agency and derives its power of investigation from the Delhi Special Police Establishment Act, 1946. It is mainly meant for investigation of cases relating to Central Government Servants, employees of Central Public Undertakings and other general offences involving interests of the Govt. of India. It also investigates important economic offences i.e. offences under the Imports & Exports Act, Foreign Exchange Regulations Act, Customs Act and frauds etc., involving Joint Stock Companies. The CBI has no great advantage over the local police in investigating ordinary crimes like murder, riot, burglary and dacoity etc. Investigation of these crimes requires lot of oral evidence as well as knowledge of local criminals. Such crimes should, therefore, be left to the local police for investigation unless in any particular case there are special reasons for which its investigation need to be entrusted to the C.B.I."

4. It is contended by Mr. B. Sriramulu, learned counsel appearing for the 5th respondent, that an offence u/S. 302 I.P.C. is not a notified offence u/S. 3 of the Delhi Special Police Establishment Act, 1946. The frequent requests made by persons seeking an investigation by the Central Bureau of Investigation is therefore purely on a misapprehension. I am satisfied from the explanation given by the learned counsel appearing for the 5th respondent that it will not be possible for this Court to entertain this writ petition. In the writ petition relief is asked for only against the 5th respondent.

5. However, I must point out that respondents 1 and 2 should have shown some respect to the notice of motion issued in this writ petition. The Government Pleader reports that he has absolutely no instructions from respondents 1 to 3. The least one would expect from respondents 1 to 3 in matters like this, where a helpless widow, comes to this Court complaining about improper investigation on her complaint is to submit a report as to the manner of the conduct of the investigation and the result of the investigation. After all in these matters what is necessary is to inform the party that a proper investigation had been made and merely because the complainant happens to be a helpless poor woman, the Police Authorities should not shirk from their duty.

6. Notice of motion was ordered in this writ petition as early as on 4-9-1987. Till today, the learned Government Pleader is unable to get proper instructions. As already stated the writ petition is directed only against the 5th respondent and no relief is sought for against the other respondents. While dismissing the writ petition, I direct a copy of this Order to be sent to the Director General of police and the Commissioner of Police, the 2nd respondent herein, so that they can look into the matter and satisfy themselves that a proper investigation had been made and also see that in future this Court is kept informed whenever notice is ordered on such writ petitions. No costs.

7. Petition dismissed.