

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.33049 OF 2014

&

M.P.Nos.1 to 2 OF 2014

S.Banu

...Petitioner

Versus

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Director of Prosecution,
No.15-B, Kamarajar Salai,
Chennai.
3. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the first respondent (i) to appoint an impartial special Public Prosecutor in Special Case No.1 of 2013 on the file of Hon'ble District Mahila Judge at Chengalpet as per the representation dated 08.12.2014 and 09.12.2014 and (ii) to include the necessary provisions of the SC/ST Act.

For Petitioner : Mr.P.Asai Thambi
For Respondents : Mr.S.Gunasekaran,
Govt. Advocate

O R D E R

Heard Mr.P.Asai Thambi, learned counsel for the petitioner and Mr.S.Gunasekaran, learned Government Advocate for the respondents.

2. The petitioner seeks for issuance of writ of Mandamus directing the first respondent to appoint a Special Public Prosecutor to conduct Special Case No.1 of 2013 on the file of the Mahila Court at Chengalpet considering her representation dated 08.12.2014 and 09.12.2014

3. The grievance of the petitioner is that the Special Public Prosecutor, who has been appointed, is the junior counsel of the counsel, who is appearing for the accused in the criminal case, and therefore, she has certain apprehension in her mind.

4. It is seen that pursuant to the interim order granted by this Court, the trial in the case has been stopped. Though the apprehension of the petitioner cannot be fully justified and merely because the junior appears as Prosecutor against the senior, no aspersion can be attributed. However, Justice should not only be done but also should appear to be done. Bearing this legal principle in mind, if the petitioner's grievance is considered, it would be better for the prosecution to appoint a different Special Public Prosecutor so as to not only protect the Special Public Prosecutor from any unwarranted allegation, but also to ensure that the trial is proceeded in a fair manner and also the defence counsel is not put to any inconvenience.

5. Since it is submitted that the representation of the petitioner is pending before the authority, there will be a direction to the second respondent to consider the petitioner's representation dated 09.12.2014 bearing the observations made by this Court in this writ petition, and to pass appropriate orders for appointment of Special Public Prosecutor to conduct the Special Case No.1 of 2013 on the file of the Mahila Court, Chengalpet, within a period of three weeks from the date of receipt of a copy of this order. Till such orders are passed, the trial of the case shall not be proceeded and shall remain stayed.

6. With regard to the second limb of the prayer made by the petitioner to include the provisions of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, it is open to the petitioner to approach the appropriate forum by way of proper application.

7. This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(LA)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Director of Prosecution,
No.15-B, Kamarajar Salai,
Chennai.
3. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

1 CC to M/s. U.Nirmal Rani, Advocate SR.No. 1008

1 CC to the Government Pleader, SR.No. 1217

W.P.NO.33049 OF 2014

MP (CO)
PSI (09.01.2015)

सत्यमेव जयते

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