



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2015

CORAM:

THE HONOURABLE Mr.JUSTICE C.T.SELVAM

Cr1.O.P.(MD)No.1946 of 2015 and

M.P.(MD) No.1 of 2015

Ayyanar

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District.

2. The Deputy Superintendent of Police,
Saathur sub Division,
Virudhunagar District.

... Respondents

PRAYER: Petition filed under Section 482 of Criminal Procedure Code praying to direct the first respondent to appoint Advocate G.Bhagavath Singh as special Public Prosecutor in Spl.S.C.No.51/09 pending before Special District sessions Court (for SC/ST(p) atrocities Act cases), Virudhunagar at Sriviliputhur.

For Petitioner : Mr.V.Rajiv Rufus

For Respondents : Mr. K.V.Rajarajan

Government Advocate(Criminal Side)

O R D E R

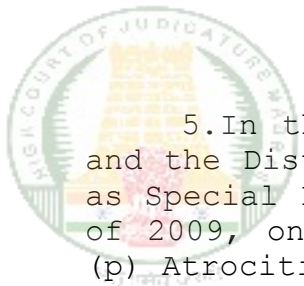
This Criminal Original Petition has been filed under Section 482 of Cr.P.C. praying this Court to appoint Thiru G.Bhagavath Singh as the Special Public Prosecutor for conduct the case in Special S.C.No.51 of 2009 on the file of the Special District sessions Court (for SC/ST(p) atrocities Act cases), Virudhunagar at Sriviliputhur.

2.At Petitioner's instance a case alleging offences under Sections 147, 148, 149, 324, 325, 326, 427, 440, 307 IPC R/W 3(1)(ii), 3(1)(x), 3(2)(v) SC/ST Act, 1989 is pending trial in Special S.C.No.51 of 2009 on the file of the Special District Sessions Court (for SC/ST(p) Atrocities Act Cases), Virudhunagar at Srivilliputhur.

3.placing reliance on Rule 4(5) of the Scheduled Case and Scheduled Tribes(Prevention of Atrocities) Rules 1995, learned counsel for the Petitioner informs of having obtained consent of Advocate Thiru G.Bhagavath Singh to act as Special Public Prosecutor in this case and seeks that such counsel may be appointed as Public Prosecutor.

4.In decision reported in 2013-2-L.W.711(R.Kandasamy .vs. The District Collector, Salem District, Salem) it has been observed as follows:

"27.In view of the foregoing, whether the prosecution is being conducted by a Senior Public Prosecutor or whether there was any allegation as against the Prosecutor,when the victim of the atrocity wishes that an eminent Senior Advocate shall be engaged to conduct the prosecution case then the District Magistrate has to engage such an Advocate to conduct the prosecution in the Special Court. The District Collector cannot avoid such a request of the victim of the atrocity."



5. In these circumstances, the Criminal Original Petition is allowed and the District Collector is directed to appoint Thiru G. Bhagavath Singh as Special Public Prosecutor for conduct of the case in Special S.C.No.51 of 2009, on the file of the Special District Sessions Court (for SC/ST (p) Atrocities Act Cases), Virudhunagar at Srivilliputhur.

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6. Further, the counter of the respondents informs of the pendency of the Non-Bailable warrant against L.Ws.1 to 14. L.Ws.1 to 14 can file a petition seeking cancellation of the Non-Bailable Warrant issued against them and the same shall be considered and disposed on merits on the same day. For such purpose, it will not be necessary for L.Ws.1 to 14 to be personally present before the Court.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub- Assistant Registrar

To

1. The District Collector,
Virudhunagar District.

2. The Deputy Superintendent of Police,
Saathur sub Division,
Virudhunagar District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.V.Rajiv Rufus, Advocate in SR.No.10922

sm:13.04.2015:2P/5C

Crl.OP(MD)No.1946 of 2015 and
M.P.(MD) No.1 of 2015
6.3.2015