

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 22.07.2015
CORAM****THE HON'BLE MR.JUSTICE M.M.SUNDRESH****CRL.O.P. (MD) No.8606 of 2015
and M.P. (MD) No.1 of 2015**

Cecile Mireille Reynaud Pulido

.. Petitioner

.. Vs ..

1.State rep. by The Inspector of Police,
Thirunagar Police Station, Madurai.2.Martin Manrique Mansour
(R2 impleaded as per the order of this
Honourable Court dated 14.07.2015 and
made in M.P.(MD) No.2 of 2015 in
Crl.O.P.(MD) No.8606 of 2015)

.. Respondents

Criminal Original Petition filed under section 482 of the Code of Criminal Procedure, praying to appoint a Special Public Prosecutor to conduct the proceedings in S.C.No.109 of 2013 on the file of the Court of the Additional District and Sessions Judge, Mahalir Neethi Mandram, Madurai and to direct the lower court to permit the same.

For Petitioners : Mr.K.Vasudevan

For 1st Respondent : Mr.K.Anbarasan Government Advocate (Crl. Side)For 2nd Respondent : Mr.K.Velusamy**O R D E R**

This Criminal Original Petition has been filed seeking appointment of a Special Public Prosecutor to conduct the proceedings in S.C.No.109 of 2013 on the file of the Court of the Additional District and Sessions Judge, Mahalir Neethi Mandram, Madurai and to direct the lower court to permit the same.

2. Heard the learned counsel for the petitioner, learned Government Advocate (Criminal side) for the first respondent and the learned counsel for the second respondent.

3.The petitioner is the defacto complainant in S.C.No.109 of 2013 on the file of the Court of the Additional District and Sessions Judge, Mahalir Neethi Mandram, Madurai for the major offence punishable under Section 302 I.P.C. The petitioner has come forward to file this petition, seeking appointment of a Special Public Prosecutor primarily on the ground that many of the witnesses have turned hostile due to the toxic



silence of the Public Prosecutor.

4.Placing reliance on the judgment of the Delhi High Court in **Ajay Kumar v. State and another, 1986 Cri.L.J. 932**, the judgment of the Hon'ble Apex Court in **Zahira Habibulla H. Sheikh and another v. State of Gujarat and others, 2004 Cri.L.J. 2050(1) SC** and the decision of this Court in **Sathyavani Ponrani v. Samuel Raj, 2010 (4) CTC 833**, the learned counsel for the petitioner submitted that it is a fit a case where a Special Public Prosecutor could be appointed especially when the petitioner is a foreign national knocking the door of this Court for justification as her daughter was brutally murdered. The learned counsel for the petitioner also submitted that an application filed under Section 301 Cr.P.C. to appoint Mr.G.Anbu Saravanan as Special Public Prosecutor was allowed. Therefore, in the light of the decision rendered by this Court in **Sathyavani Ponrani v. Samuel Raj, 2010 (4) CTC 833** either he or a Senior Lawyer by name Mr.K.Sundaravel may be allowed to perform as lawyer under Section 24(8) Cr.P.C.

5.The learned counsel for the second respondent submitted that there is no difficulty in the event of the petitioner's counsel performing the role under Section 24(8) Cr.P.C. in consonance with the order referred to supra. He would further submit that taking note of the long pendency of the case, the trial Court may be directed to conclude the same in a time bound manner.

6.Every trial is a march towards truth and justice. A fair trial has to be arose from the point of view of the defacto complainant as well as the accused. The ultimate duty of the Court is to find out the truth. A procedural law being a hand made of justice will have to be used for the said purpose. Considering the fact that some of the witnesses have turned hostile, this Court is of the view that the counsel appointed under Section 301 Cr.P.C. viz. G.Anbu Saravanan can be allowed to perform the role under Section 24(8) Cr.P.C. either by himself or by engaging another Senior Lawyer Mr.K.Sundaravel.

7. Accordingly, a direction is issued to the learned Additional District and Sessions Judge, Mahalir Neethi Mandram, Madurai to permit the counsel named G.Anbu Saravanan to perform the role under Section 24 (8) Cr.P.C. either by himself or by engaging another Senior Lawyer Mr.K.Sundaravel.

8. Considering the facts and circumstances of the case, this Court is not willing to go into the competency or otherwise of the learned Public Prosecutor more so, when she is not before this Court. It is also made clear that this Court has not expressed anything on the merits of the case.

9. Taking note of the long pendency of the case, a direction is issued to the learned Additional District and Sessions Judge, Mahalir Neethi Mandram, Madurai to dispose off S.C.No.109 of 2013 within a period of nine months from the date of receipt of a copy of this order.

10. A submission has been made by the learned counsel for the petitioner that it has to be clarified as to who has to bear the costs of the translation. As the prosecution is launched by the State, it is open to the State to make payment for the costs of the translation.



11. This Criminal Original Petition is ordered accordingly.
Consequently, connected M.P. (MD) No.1 of 2015 is closed.

Sd/-

Assistant Registrar (

/True Copy/

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Sub Assistant Registrar

sj

To

1. The Additional District and Sessions Judge,
Mahalir Neethi Mandram, Madurai.

2. The Inspector of Police, Thirunagar Police Station, Madurai.

3. The Additional Government Pleader,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr. G. Anbu Saravanan Advocate SR.No.40469

CRL.O.P. (MD) No.8606 of 2015

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

Dated: 22.07.2015

GJM 7.8.2015

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