

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.07.2016

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and

The Honourable Mr.Justice R.MAHADEVAN

W.P.No.35011 of 2012

Prisoners Rights Forum
represented by its
Director P.Pugalenthi
No.5, 4th Floor,
Sunkurama Street,
Chennai 600 001.

... Petitioner

Versus

1.State of Tamilnadu
represented by the Secretary,
Home Department,
Secretariat, Chennai 600 009.

2.The Director General of Police
Mylapore, Chennai 600004.

3.A.Vijayakumar
Inspect of Police
Nanguneri Police Station
Tirunelveli District.

4.The Joint Director,
Central Bureau of Investigation
Chennai 600 006.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issue of a writ of Mandamus, directing the respondent No.1/State of Tamil nadu to register a case under Section 302 IPC against respondent No.3 involved in the killing of T.Vanamamalai at Marukaalkurichi, Tirunelveli District on 24, July 2012 in an alleged encounter and further directing respondent No.1/State of Tamil Nadu to hand over the investigation of the said case to respondent No.4/Central Bureau of Investigation.

For Petitioner ::: Mr.M.Radhakrishnan
For Respondents::: Mr.S.T.S.Murthi
Special Government Pleader
assisted by Mr.V.Shanmugasundaram
Government Pleader for R.1 and R.2

O R D E R

(The Order of the Court was made by The Hon'ble
The Chief Justice)

The prayer in the present petition by an organisation propagating a case in respect of the alleged killing of one T.Vanamamalai at Murukaalkurichi, Tirunelveli District on 24.07.2012, to register a case under Section 302 IPC, though it is classified as encounter killing. A further prayer is made for transfer of investigation to the Central Bureau of Investigation.

2. Learned Government Advocate has informed us that the investigation of the matter was entrusted to the CBCID. The communication from the Deputy Superintendent of Police, Crime Branch states as under:

"During the investigation in CBCID, 88 witnesses were examined. For the witnesses viz., Ramaiah Thevar, Arunachalam @ Anandharaj, Subbiah and Thalavoi statements were recorded under Section 164 Cr.P.C by the learned Judicial Magistrate -I, Tirunelveli. Since the investigation in Nanguneri Police Station Crime No.190/2012 under Sections 353, 307 IPC @ 176 Cr.P.C disclosed that Tr.Vijayakumar, Inspector of Police, formerly Nanguneri Police Station (now under suspension) had committed the offence under Section 304(II) IPC, the final report has been laid before the court of the learned Judicial Magistrate I, Tirunelveli under Section 304(II) IPC. The same has been taken on file in PRC.No.31/ 2015 on 31.08.2015. Now the case has been posted to 17.08.2016 for furnishing copies to the accused.

It is humbly submitted that a quash petition in CrI.O.P.No.5997/2016 has been filed by accused A.Vijayakumar, formerly Inspector of Police, Nanguneri P.S., now under suspension had come up for hearing on 12.04.2016 before the Hon'ble Madurai Bench of Madras High Court.

After hearing both the sides, interim stay has been granted by the Hon'ble Court. In this regard, the draft counter was filed before the Hon'ble Madurai Bench of Madras High Court on 02.06.2016 through P.P.Tr.Mayilvahanarajendran and obtained USR.No.1219/2016. The same is still pending before the said Hon'ble Court.'

3. In view of the aforesaid position, no further directions are required. The writ petition accordingly stands closed, leaving the parties to bear their own costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ksr

To

1.The Secretary, Home Department, Secretariat, Chennai 600 009.

2.The Director General of Police, Mylapore, Chennai 600004.

3.A.Vijayakumar
Inspect of Police
Nanguneri Police Station
Tirunelveli District.

4.The Joint Director,
Central Bureau of Investigation,
Chennai 600 006.

1 cc to Government Pleader, sr.37408

W.P.No.35011 of 2012

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