



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 29.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P (MD) No.20480 of 2016

THE REGISTRAR (JUDICIAL)
MADURAI BENCH OF MADRAS HIGH COURT
MADURAI.

... Petitioner

Vs.

- 1 THE PRINCIPAL SECRETARY TO
GOVERNMENT HOME DEPARTMENT SECRETARIAT
CHENNAI.
- 2 THE JOINT CHIEF CONTROLLER OF
EXPLOSIVES EXPLOSIVE DEPARTMENT
LAKSHMIPATHI ROAD EGMORE CHENNAI - 600 008
- 3 THE DEPUTY CHIEF CONTROLLER OF EXPLOSIVES
SIVAKASI REGION, SIVAKASI,
VIRUDHUNAGAR DISTRICT
- 4 THE DISTRICT COLLECTOR
VIRUDHUNAGAR DISTRICT.
- 5 THE DISTRICT REVENUE OFFICER
VIRUDHUNAGAR DISTRICT.
- 6 THE DIRECTOR
FIRE SERVICES DEPARTMENT CHENNAI.
- 7 THE DISTRICT FIRE OFFICER
FIRE AND RESCUE DEPARTMENT VIRUDHUNAGAR.
- 8 THE SUPERINTENDENT OF POLICE
VIRUDHUNAGAR.
- 9 N.SUTHANTHIRARAJAN
M/S.SRI RAGAVENDRA FIREWORKS SHOP SHOP NO.
OLD NO.3/P KAMAK ROAD SIVAKASI
VIRUDHUNAGAR DISTRICT.

- 10 DR.NAGENDRAN
DEVAKI SCANS 39-Q KAMAK ROAD SIVAKASI
VIRUDHUNAGAR DISTRICT.

.. Respondents



Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to regulate the storage sale use and transport of fire crackers strictly as per the provisions of the Explosives Act 1884 and the rules framed thereunder under the Explosives Rules 2008 to see that during the festival season licence is not granted for sale of fire crackers in shops located nearby to hospitals schools temples etc. to adopt safety measures for sale of crackers by retail and wholesale and preventing loss of life.

For Petitioner : Mr.R.Aravindan
For Respondents : Mr.G.R.Swaminathan for
Mr.D.Saravanan for R2 & R3
Mr.M.Govindan for R1, R4 to R8
Special Government Pleader
Mr.Isaac Mohanlal
Senior counsel for
Mr.F.Deepak for R10
N.Dilipkumar for R9

ORDER

(Order of the Court was made by S.NAGAMUTHU, J.)

This is a suo motu public interest litigation initiated by this Court based on the newspaper report relating to the fire at Sivakasi shop killing eight persons, who were working in the scan centre situated by the side of the cracker shop and one person died subsequently.

2. When this matter came up for hearing on 21.10.2016, this Court passed the following order:

"Mr.N.Suthanthirarajan, M/s.Sri Ragavendra Fireworks shop, Shop No.OLD No.3/P, Kamak Road, Sivakasi, Virudhunagar District is suo motu impleaded as 9th respondent in this petition. Dr.Nagendran, Devaki Scans, 39-Q, Kamak Road, Sivakasi, Virudhunagar District is also suo motu impleaded as 10th respondent in this petition. For these respondents, notice is directed to be served through Police today itself.

2.Today, Mr.M.Govindan, the learned Special Government Pleader, entered appearance for the respondents 1 and 4 to 8. The 5th respondent also made his personal appearance before this Court today.

3. We heard the learned Special Government Pleader and also perused the documents produced by them. It is seen from the records that the distance between the fireworks shop and the Devaki Scan Centre is roughly about 5 meters and there were also other buildings situated very near to the fireworks shop.



In fact, for running scan centre licence has also been issued under the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994. Similarly, for the fireworks shop, licence has been issued by the Joint Chief Controller of Explosives, South Circle, Chennai, based on the No Objection Certificate issued by the District Revenue Authorities and other officials.

4. Prima facie we are satisfied that there have occurred lot of violations in granting licence and in allowing the fireworks shop to be run in that locality.

5. After having made his submissions, at last, the learned Special Government Pleader sought for time to file a report on behalf of the said authorities. Mr.D.Saravanan, learned Central Government Standing Counsel entered appearance for the respondents 2 and 3. He seeks time to get instructions.

6. Post the matter on 25.10.2016 as a first case. It is further directed that the second respondent viz., the Joint Chief Controller of Explosives, Chennai, the third respondent viz., the Deputy Chief Controller of Explosive, Sivakasi Region, Virudhunagar District and the fifth respondent viz., the District Revenue Officer, Virudhunagar District are directed to be personally present before this Court along with the connected records pertaining to the licence issued, the action taken and the other relevant documents.

7. In view of the recurrences of these kinds of incidents resulting in loss of many lives, we direct the State Government and the District Administration of all the Districts to strictly implement the provisions of the Explosives Act and Rules and the license conditions. It is further directed that in the event any violation is brought to our notice, this Court may have to initiate appropriate action against the officers concerned."

3. When this matter came up for hearing on 26.10.2016, this Court passed the following order:

"The Superintendent of Police, Virudhunagar District made appearance before this Court and he explained to us the steps taken for conducting effective investigation. The Investigation Officer also made appearance. The respondents 2, 3 and 5 have also made their appearance. On their submissions, the learned Special Government Pleader submitted that there shall be a thorough and detailed investigation in the matter and no person, who is



responsible for the crime, shall be spared. The Superintendent of Police submitted that he would personally monitor and ensure that there is thorough investigation in this matter. The Deputy Superintendent of Police / Investigating Officer told us that he has got no proposal to arrest Dr.Nagendran and Dr.Nagendran is required only for interrogation purpose. He further told that he would not arrest Dr.Nagendran without further orders from this Court. The said statement is recorded. We hope and trust that they would go by the assurance made before this Court. Therefore, for the present, we are not inclined to transfer the investigation to any other agency.

2. In respect of a payment of compensation to the family members of the victims, who lost their lives, the Superintendent of Police submitted that the District Collector has already submitted a proposal to the Government by proceeding in Na.Ka.No.E5/30681/2016, dated 24.10.2016 recommending for payment of monetary relief to the family members of the deceased numbering 8. We are informed that subsequently yet another person, who sustained injury, by name Dr.Janakiraman, succumbed to the injuries. Thus, as of now, the family members of the 9 persons, who lost their lives, are entitled for compensation. The Superintendent of Police, on enquiry, before this Court told that sufficient fund is available in the victim compensation fund established under Section 357-A of the Code of Criminal procedure.

3. In the instant case, all the deceased had lost their lives not on account of any fault or negligence on their part. They were all either employed in the scan centre or the patients in the scan centre which is situated by the side of the fireworks shop. Due to fire accident just in front of the shop and due to smoke engulfing the entire scan centre, those 9 persons have lost their lives. Therefore, the family members are entitled for compensation as of right under Section 357-A of the Code of Criminal Procedure. As per the scheme floated by the Government of Tamil Nadu under Section 357-A of the Code of Criminal Procedure, the family members of the deceased are entitled for Rs.3 lakhs as compensation each. In our consider view, there may not be any legal impediment for the Superintendent of Police to pay Rs.3 lakhs each to the family members of the victims from out of the said fund, as provided in Section 357-A of the Code of Criminal Procedure. Therefore, we are inclined to



issue appropriate direction. But, this is only an interim compensation and it is not out of final adjudication regarding the entitlement of the family members of the deceased. The family members are always at liberty to make further claims for compensation, if they are advised to do so before the appropriate forum.

4. In view of the above, we issue the following directions:

(a) The investigation of the case shall be done by the Deputy Superintendent of Police and the same shall be monitored by the Superintendent of Police, Virudhunagar District. The investigating officer shall submit a status report before this Court on the next hearing date.

(b) The Superintendent of Police shall pay Rs.3 lakhs each to the family members of the victims, who lost their lives in the above occurrence, on or before 25.11.2016 and the same shall be reported to this Court on 28.11.2016.

(c) The further appearance of the respondents 2, 3, 5 and 8 before this Court is dispensed with.

5. Post the matter on 28.11.2016."

4. Today, the Deputy Superintendent of Police, Sivakasi Sub Division, has submitted a status report, wherein, inter alia, he has stated in Paragraph Nos.7, 8 and 9 as follows:

"7.I state that as per the statements of witnesses recorded u/s 161 (3) of Cr.P.C. A1 alone was granted license but A2 and A3 are running the cracker business in the place permitted by licensing authority to A1.

8.I further state that the statements of witnesses recorded u/s 161(3) Cr.P.C. has pointed out the involvement of A5 to A8 accused in crime. The following witnesses Tr.Saravanan, Deputy Chief Controller of Explosives, Sivakasi, Raja Saravanan, Mariappan, Ravikannan, Ganesan, Mareeswari, Kanniyammal, Muthupriya, Sumathi, Laxmi, Esakkiyammal, Saranya, Subbulaxmi, Maheswari, Rakkappan, Subramanian, Theiva malar, Ganesan, Sanmugaraj, Karuppayammal, Murugesan, Veeraiah, Angel Roselina, Salini, Jeyalaxmi, Arunachalam, Gopinath, Hariram, Paramasivam, Dr.Kalpana, Ashokkumar, Solaikumar pointed towards the guilt of the accused A1 to A3 and A5 to A8. It is equally submitted that so far the investigation conducted that there is no materials to connect A4 Dr.Nagendran in the crime.

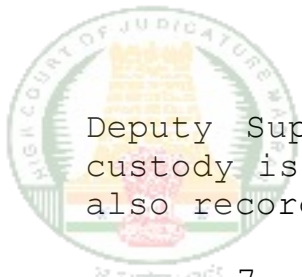
<https://hcservices.ecourts.gov.in/hcservices/> I submit that on 21.10.2016 at about 6.0 hrs at Sivakasi bus Stand I have caused arrest of 2nd accused Shenbagaraman and 3rd accused Anand along with



two loadmen by name (A5) Karuppasamy and (A6) Kadarkaraipandi. I recorded the statement of accused Shenbagaraman. My enquiry reveals that A2 Shenbagaraman and A3 Anand took either lease or rent of the cracker shop from the 1st accused Suthanthirajan who is a licensee for the cracker shop situated at 3P Kamak Road and run the shop in the name of the Ragavendra Traders. The adjacent Devaki scan centre building belongs to one Tr.Narayanasamy Naicker, the father of the 1st accused. On 20.10.2016 on the orders of one Balasubramaniam of Ramnad the 407 van bearing Registration Number TN 65 AA 8524 belonging to one Balasubramaniam was parked in front of the shop, while loading the fireworks crackers by A5 Karuppasamy and A6 kadarkaraipandi along with A7 Palanivelu alias Pala and A8 Suresh of Ramnad mishandled fireworks crackers boxes which resulted the mishap. Immediately myself along with team of police officers proceeded to Ramnad and arrested A7 Palanivelu alias Pala and A8 Suresh of Ramnad mishandled fireworks crackers boxes which resulted the mishap. Immediately myself along with team of police officers proceeded to Ramnad and arrested R7 Palanivelu alias Pala and A8 Suresh at Ramnad Bus Stand at 13.00 hrs on 21.10.2016. All the six accused were sent for judicial custody on the same day after subjecting them due interrogation."

5. The Superintendent of Police, Virudhunagar District, who made appearance before this Court, would submit that to comply with the order of this Court to pay the compensation to the family members of the victims, as provided under Section 357(A) of the Code of Criminal Procedure, the Additional Secretary to Government, Home, Police (XII) Department, Secretariat, Chennai, has written a letter to the Director General of Police, wherein, he has stated that the matter is under active process and the same is undergoing the administrative procedure for sanctioning the amount of Rs.27 lakhs, the same may be paid by the Superintendent of Police to the family members of the victims. The Superintendent of Police would further submit that within four weeks from today, after completing all official formalities, compensation shall be disbursed to the victims. He would further submit that he has also ascertained the legal representatives of the victims, who are entitled for the said benefit. The said statement is recorded.

6. So far as the investigation is concerned, as we have already pointed out, the Deputy Superintendent of Police has narrated the details of the investigation done. The Superintendent of Police would submit that the investigation would be completed within eight weeks and final report would be filed. He would further submit that the first accused is yet to be secured and the



Deputy Superintendent of Police has decided to arrest him, his custody is required for interrogation also. The said statement is also recorded.

7. So far as the fourth accused Dr.Nagendran is concerned, earlier, the Deputy Superintendent of Police gave an undertaking that he shall not be arrested. Today, in Paragraph No.8 of the report, the Deputy Superintendent of Police has stated that so far as the investigation conducted has revealed that there is no materials to connect A4/Dr.Nagendran in the case. The same is recorded. Thus, according to the Deputy Superintendent of Police, there is no scope to arrest Dr.Nagendran as accused in the matter. The same is also recorded.

8. In view of the above, we close the suo motu litigation with a direction to the Superintendent of Police to comply with the earlier direction and to go by his undertaking to disburse the compensation amount within a period of four weeks from today and we also direct the Deputy Superintendent of Police to expedite the investigation and file final report, preferably, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently connected Miscellaneous Petition in WMP No.16399 of 2016 is closed.

Sd/
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar.

To

- 1 THE PRINCIPAL SECRETARY TO GOVERNMENT HOME DEPARTMENT
SECRETARIAT, CHENNAI.
 - 2 THE JOINT CHIEF CONTROLLER OF EXPLOSIVES EXPLOSIVE DEPARTMENT
LAKSHMIPATHI ROAD EGMORE CHENNAI - 600 008
 - 3 THE DEPUTY CHIEF CONTROLLER OF EXPLOSIVES SIVAKASI REGION,
SIVAKASI,VIRUDHUNAGAR DISTRICT
 - 4 THE DISTRICT COLLECTOR,VIRUDHUNAGAR DISTRICT.
 - 5 THE DISTRICT REVENUE OFFICER,VIRUDHUNAGAR DISTRICT.
 - 6 THE DIRECTOR, FIRE SERVICES DEPARTMENT CHENNAI.
 - 7 THE DISTRICT FIRE OFFICER,FIRE AND RESCUE DEPARTMENT
VIRUDHUNAGAR.
 - 8 THE SUPERINTENDENT OF POLICE, VIRUDHUNAGAR.
 - 9 THE DEPUTY SUPERINTENDENT OF POLICE, SIVAKASI,
VIRUDHUNAGAR DISTRICT.
- +1CC to M/S.N.Dilip Kumar, Advocate, SR.No. 73829
+1CC to M/S.D.Saravanan, Advocate, SR.No. 73782
+1CC to the Special Government Pleader, SR.No. 74219

ORDER MADE IN
W.P (MD) No.20480 of 2016
29.11.2016