

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 04.08.2017
CORAM

WEB COPY

THE HON'BLE MR.JUSTICE S.S.SUNDAR**W.P. (MD) No.13974 of 2017**

Nagajothi

... Petitioner

-Vs-

1. The Home Secretary,
Government of Tamil Nadu,
Secretariat, Chennai-9.
2. The Director General of Police,
DGP Office, Mylapore,
Dr.Radhakrishnan Salai, Chennai-5.
3. The Superintendent.
Central Prison,
Madurai.
4. The Dean,
Government Rajaji Hospital,
Madurai.
5. The Commissioner of Police,
Madurai City,
Madurai.
6. The Inspector of Police,
C-5, Karimedu Police Station,
Madurai City,
Madurai
(Crime No.584/2017)

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the fourth respondent to conduct re-post mortem of the petitioner's husband named Karuppasamy's body through a two senior professors from forensic department and in the presence of an independent expert forensic doctor from petitioner's side under the full video coverage within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Karunanidhi.

For Respondents : Mr.A.K.Baskarapandiyar,
Special Government Pleader.

**O R D E R**

This Writ petition is filed for issuing a Writ of Mandamus directing the fourth respondent to conduct re-post mortem of body of the petitioner's husband by name Karuppasamy through two senior professors from forensic department and in the presence of an independent expert forensic doctor from petitioner's side under the full video coverage within a stipulated time that may be fixed by this Court.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

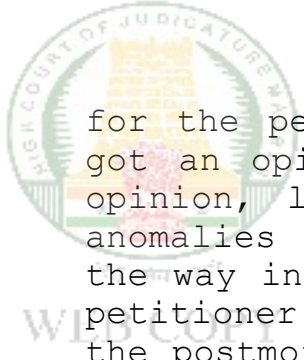
3. The case of the petitioner is that her husband was taken by the police for enquiry on 20.07.2017. The petitioner's husband was arrested by the police officers attached to Rajathani Police station in Crime No.338 of 2017 for the alleged offences under Sections 294(B) and 307 of IPC. It is stated that the petitioner's husband was taken to hospital on 20.07.2017 and after complete medical check-up, he was once again sent to Judicial custody at Central Prison, Madurai. It is further stated by the petitioner that on 23.07.2017 the death of the petitioner's husband was informed to the petitioner's brother-in-law. Thereafter, on 23.07.2017 itself, the petitioner lodged a complaint before the Rajathani Police Station for proper investigation. The body of the petitioner's husband is with the fourth respondent hospital.

4. The grievance of the petitioner is that the autopsy was not conducted by the Medical Officer as per the guidelines of the Hon'ble Supreme Court as well as the instructions/guidelines of the National Human Rights Commission.

5. The learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in People's Union For Civil Liberties and another Vs. State of Maharashtra reported in 2014(10) SCC 635, where in, in paragraph No.31.3 (f) it was held as under:-

(f) Post-mortem must be conducted by two doctors in the district hospital, one of them, as far as possible, should be incharge/head of the district hospital. Post-mortem shall be videographed and preserved

6. In this case, the postmortem was done and postmortem certificate was also produced before this Court. This Court has also permitted the counsel for the petitioner to get the copy of the coverage containing the videograph of postmortem done and other particulars to the counsel for the petitioner, so that the petitioner also can impress this Court about any irregularity and necessity to get independent opinion from expert as to the irregularity and the illegality of the postmortem done by the official respondent. In this connection the learned counsel



for the petitioner after getting sufficient time from this Court got an opinion from an expert of his choice. As per the expert opinion, learned counsel for the petitioner pointed out certain anomalies and irregularities not only in the report but also in the way in which the postmortem was conducted on the body of the petitioner's husband. The expert opinion about the manner in which the postmortem was conducted reflects certain irregularities which renders the postmortem report an improper and unreliable one.

7.As a matter of fact, it is represented that the postmortem videograph does not show the image of any doctor who has actually conducted the autopsy. In such circumstances, this court is of the view that the postmortem alleged to have been conducted is not proper. In the circumstances this Court is of the view that the request of the petitioner for getting independent expert opinion by conducting fresh autopsy can be accepted.

8.The learned Special Government pleader, on instructions, submitted that the two professors from Forensic Department of Madurai, Medical College, can be appointed as the doctors, who can perform the postmortem on the body of petitioner's husband. The request of the learned counsel for the petitioner is that one more expert who is also qualified can be allowed to perform the postmortem so that the re-postmortem done will serve the purpose for which it is required. Hence Dr.Juliana and Dr.Rajavelu professors of Forensic Department, Madurai Medical College are appointed and they are directed to conduct repostmortem on the body of the petitioner's husband along with another professional Dr.Selvakumar, Professor, Kilpauk, Medical College Hospital, Chennai, and it is the responsibilities of the learned counsel for the petitioner to send a copy of this order to Dr.Selvakumar and to bring him for the purpose of his assistance in the process.

9.The doctors who are named shall be given all the facilities for conducting the autopsy/repostmortem at the Government Rajaji Hospital, Madurai. The hospital authorities also are directed to cooperate for implementing this order in letter and spirit. Since the objection of the petitioner was only on the apprehension which is expressed in the Writ Petition, the petitioner is directed to accept the body of the petitioner's husband as her grievances are redressed by passing this final order in this Writ Petition.

10.With above observation, this Writ Petition is disposed of. No Costs.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/



To

1. The Home Secretary,
Government of Tamil Nadu,
Secretariat, Chennai-9.
 2. The Director General of Police,
DGP Office, Mylapore,
Dr.Radhakrishnan Salai, Chennai-5.
 3. The Superintendent.
Central Prison,
Madurai.
 4. The Dean,
Government Rajaji Hospital,
Madurai.
 5. The Commissioner of Police,
Madurai City,
Madurai.
 6. The Inspector of Police,
C-5, Karimedu Police Station,
Madurai City,
Madurai.
 7. Dr.Juliana,
Professor of Forensic Department,
Madurai Medical College,
Madurai.
 8. Dr.Rajavelu,
Professor of Forensic Department,
Madurai Medical College,
Madurai.
 9. Dr.Selvakumar,
Professor,
Kilpauk Medical College & Hospital,
Chennai.
- +1cc to M/S. R.KARUNANIDHI, Advocate, SR.No.70694.

W.P. (MD) No. 13974 of 2017
04.08.2017