

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.28419 of 2018

N.Sekar

... Petitioner

Vs.

1.The District Collector,
O/o. the District Collector,
Salem District,
Salem - 636 001.

2.The District Adi Dravidar & Tribal Welfare Officer
Adi Dravidar & Tribal Welfare Department,
Salem,
Salem District.

3.State rep. by
The Inspector of Police,
Thalaivasal Police Station,
Thalaivasal,
Salem District.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus and direct the first respondent to appoint one A.Pandian (Enrol.No.1585/2008), Advocate as Special Public Prosecutor in S.C.No.331 of 2017 on the file of the Special Court, Salem based on the petitioners' representation dated 06.02.2018.

For Petitioner : Mr.S.Kumara Devan

For Respondents: Mr.C.Raghavan

Government Advocate (Crl.Side)

ORDER

This petition has been filed seeking for appointment of one Mr.A. Pandian (Enrol.No.1585/2008), Advocate as the Special Public Prosecutor to conduct the case in S.C.No.331 of 2017, on the file of the Special Court, Salem.

2. The learned counsel for the petitioner would submit that the petitioner is the de-facto complainant and his wife and mother were attacked by the accused persons on 07.08.2016. A complaint was given before the respondent police and FIR was

registered in Crime No.284 of 2016, against four accused persons for the offence under Sections 294(b), 324, and 506(ii) of Indian penal Code, r/w Section 3(1)(r)(s), and 3(2)(ra) of SC/ST (Prevention of Atrocities) Amendment Act, 2015. The respondent police completed the investigation and filed a final report before the Court below and the same has been taken on file in S.C.No.331 of 2017.

3. In the mean time, the petitioner as a victim made a representation to the District Collector on 06.02.2018, to appoint one Mr.A.Pandian, Advocate as the Special Public Prosecutor, inspite of the receipt of the representation, the first respondent has not taken any steps to appoint the Special Public Prosecutor as requested by the petitioner.

4. The learned counsel for the petitioner also brought to the notice of this Court, a consent letter given by the Advocate Mr.A.Pandian on 06.02.2018, agreeing to appear in this case as a Special Public Prosecutor.

5. As per the Rule 4 (5) of the SC/ST (Prevention of Atrocities) Rules, a victim is entitled to engage any eminent Senior Advocate for conducting cases before the Special Court as a Special Public Prosecutor. This position has been confirmed by various Judgments given by this Court. The learned counsel relied upon the Judgment of this Court reported in 2014 (4) MLJ 339 (R.Kandasamy Vs.The District Collector). Therefore, the learned counsel would further submit that the first respondent has to proceed further and appoint the above said Mr. A.Pandian, Advocate as the Special Public Prosecutor to conduct the case in S.C.No.331 of 2017.

6. In view of the settled position of law, there shall be a direction to the first respondent to appoint Mr. A.Pandian, Advocate as the Special Public Prosecutor to conduct the case in S.C.No.331 of 2017, on the file of the Special Court, Salem. This process shall be completed by the first respondent within a period of three weeks from the date of receipt of a copy of this order.

7. Accordingly, this writ petition stands allowed. No costs.

-s/d-

Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

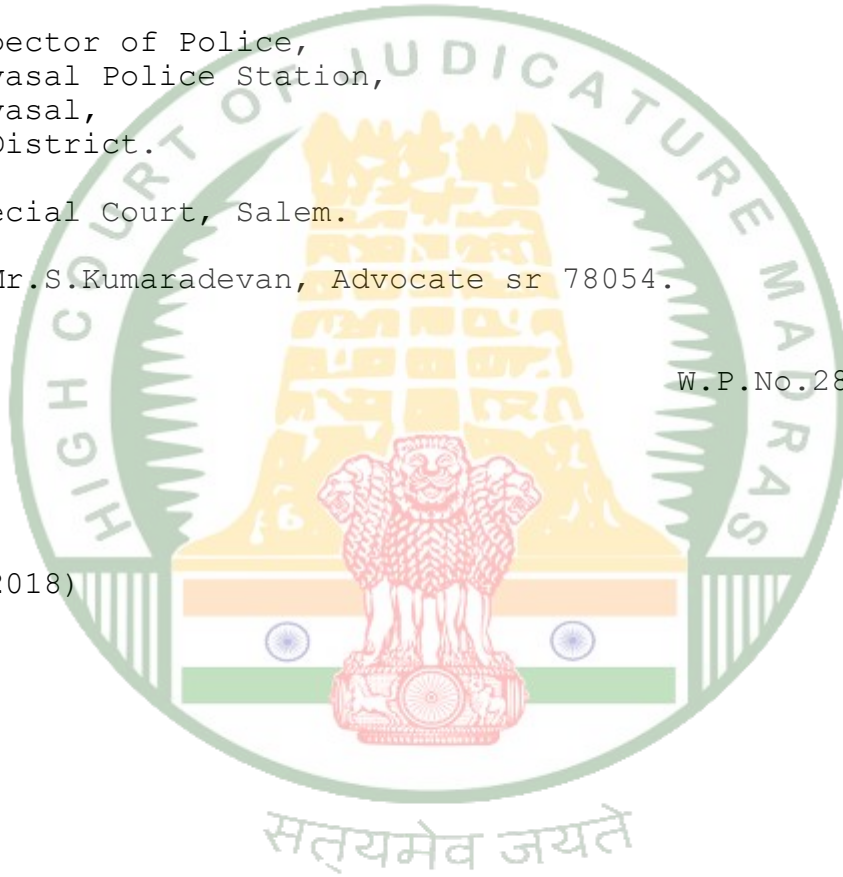
nmm/dss

To

- 1.The District Collector,
O/o. the District Collector,
Salem District,
Salem - 636 001.
 - 2.The District Adi Dravidar & Tribal Welfare Officer
Adi Dravidar & Tribal Welfare Department,
Salem,
Salem District.
 - 3.The Inspector of Police,
Thalaivasal Police Station,
Thalaivasal,
Salem District.
 4. The Special Court, Salem.
- +1 CC to Mr.S.Kumaradevan, Advocate sr 78054.

W.P.No.28419 of 2018

VSNI (CO)
SP(05/12/2018)



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