



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.O.P. [MD] .No.5129 of 2016

and

CrI.M.P. (MD) .No.3838 of 2016

Parvathi

: Petitioner

Vs.

1. The District Collector,
Trichy District, Trichy.

2. State represented by the
Deputy Superintendent of Police,
Manaparai, Trichy District.
(Crime No.272 of 2011)

: Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. directing the first respondent to appoint G.J.Maduram as the Special Public Prosecutor for conduct the case in Special S.C.No.15 of 2012 on the file of the I Additional Sessions Court, Trichy District cum PCR Court, Trichy.

For Petitioner : Mr.R.Venkatesan

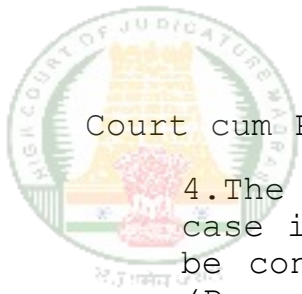
For Respondents : Mr.M.Chandra Sekaran
Additional Public Prosecutor

ORDER

The Criminal Original Petition has been filed to direct the first respondent to appoint one Mr.G.J.Madhuram as the Special Public Prosecutor to conduct the case in SP.S.C.NO.15 of 2012, which is pending before the I Additional Sessions Court cum PCR Court, Trichy.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. The learned counsel appearing for the petitioner would submit that the petitioner's husband was murdered on 17.04.2011 and initially the case was registered as man missing case and subsequently, it was altered into one for murder. The respondent Police registered an FIR in Crime No.272 of 2011, for the offences under Sections 302, 201 I.P.C. r/w. Section 3(1)(x) of the SC/ST Act (P.Os) 1988. After investigation, the respondent Police had filed a final report for the said offences and the same was numbered as Special S.C.No.15 of 2012, on the file of the I Additional Sessions



Court cum PCR Court, Trichy.

4.The learned counsel would further submit that it is a murder case involving the petitioner's husband and therefore it has to be conducted effectively. As per Rule 4 (5) (1) of the SC/ST (Prevention of Atrocities) Act, 1989, the victim is entitled to engage an eminent Senior Advocate for the purpose of conducting the case in the Special Courts. The petitioner had identified one Mr.G.J.Maduram to conduct the case as Special Public Prosecutor and the said Advocate had also given a consent letter on 06.03.2013. This was informed by the petitioner to the first respondent on 19.11.2012 and the petitioner had requested the first respondent to appoint the said Mr.G.J.Maduram as Special Public Prosecutor to conduct the case. However, the first respondent did not take any decision in this regard and therefore the petitioner has filed the present Criminal Original Petition before this Court.

5.The learned Additional Public Prosecutor appearing for the respondents would submit that the first respondent had appointed one Mr.R.Vengadesan, who is also attached with the said Court as an Additional Public Prosecutor, as Special Public Prosecutor to appear in this case.

6.The main issue that is involved in this case is whether the first respondent has to appoint only the Advocate suggested by the petitioner as Special Public Prosecutor to conduct the case or the first respondent by himself can appoint any person as Special Public Prosecutor. This Question is no longer res integra.

7.The learned counsel appearing for the petitioner has submitted three reported judgments of this Court made in (2011) 2 MLJ (Cr1) 22-(Ms.Dhamayanthi Vs. Muruganantham and others), 2013-2-L.W.711-(P.Kandasamy Vs. The District Collector, Salem District, Salem) and 2018 (1) MWN (Cr.) 266-(S.Veeralakshmi Vs. District Collector cum District Magistrate, Madurai District, Madurai-20).

8.This Court has consistently held in all the above said three judgments that when the victim of the atrocity wishes that an eminent Senior Advocate shall be engaged to conduct the prosecution case, then the learned District Magistrate has to engage such an Advocate to conduct the prosecution in the Special Court. The District Collector cannot avoid such a request of the victim of the atrocity. In view of this settled position of law, the first respondent cannot insist that the Additional Public Prosecutor, who is attached to that Court will appear as Special Public Prosecutor in this case. The first respondent has to necessarily appoint the said Mr.G.J.Maduram as Special Public Prosecutor, since the victim wanted this Advocate to conduct the case.



9. In view of the above, there shall be a direction to the first respondent to appoint Mr.G.J.Maduram as Special Public Prosecutor to conduct the case in Special.S.C.NO.15 of 2012, on the file of the the I Additional Sessions Court cum PCR Court, Trichy, within a period of 10 days from the date of receipt of copy of this order.

10. This Criminal Original Petition is allowed accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The District Collector, Trichy District,
Trichy.

2. The I Additional Sessions Court cum PCR Court,
Trichy.

3. The Deputy Superintendent of Police,
Manaparai, Trichy District.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC TO MR.R.VENKATESH, ADVOCATE IN SR.NO.84111.

TSG

DS SV SAR-1 11.10.2018 3P/6C

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12.09.2018