

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 16.07.2019	Delivered on 22.07.2019
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CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.OP No.8744 of 2016

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

..Petitioner

.Vs.

1. State of Tamil Nadu
rep.by the
Secretary to Government,
Home Department,
Secretariat,
Chennai-600 009.
2. The District Collector,
Chennai District,
Chennai Collectorate,
Chennai 600 001.
3. Ms.P.C.Subbulakshmi,
Sub Divisional Magistrate &
Personal Assistant (ULT) to the Collector,
Chennai Collectorate,
Chennai 600 001.
4. The Inspector of Police,
F-1, Chintadripet Police Station,
Chintadripet,
Chennai 600 002.
5. Mr.V.Karuppannan,
Jailor (in charge),
Chennai Central Prison(Remand),
Chennai,
presently working as
Deputy Inspector General of Prisons(Chennai Range),
Thalamuthu Natarajan Maaligai,
Egmore, Chennai-600 008.

6. Mr.C.Rathan,
Assistant Jailer,
Chennai Central Prison (Remand),
Chennai.

7. Mr.C.Manickam,
formerly Dy. Superintendent of Police,
State Human Rights Commission,
Chennai.

..Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in the order dated 30.06.2014 in CrI.M.P.No.4128 of 2014, passed by the learned Chief Metropolitan Magistrate, Egmore, Chennai and the consequential G.O.(Ms) No.623 Home (Pol.1A) Department dated 24.08.2015 issued by respondent no.1 and quash the same, to direct respondents 1 and 2 to hand over the entire records of the proceedings under PSO 151 with regard to the death of Mr.Subramanian (under trial prisoner no.10403) including G.O.No.1821 dated 28.11.2007, Public (Law and Order-E) Department dated 28.11.2007 to respondent no.4, and to further direct respondent no.4 to commence and complete the investigation.

For Petitioner : Mr.M.Radhakrishnan

For R 1 & R 2 : Mr.C.Emilias,
Additional Advocate General
Assisted by:
Mr.M.Mohamed Riyaz, APP

For R 5 : Mr.N.R.Elango, Senior Counsel
for Mr.R.Vivekananthan

For R 7 : Mr.A.Gokulakrishnan

For R 4 & R 6 : No appearance

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the private complaint filed by the Sub Divisional Magistrate and Personal Assistant to the Collector, Chennai and for consequential reliefs.

2. The petitioner is a third party to the proceedings and the present petition is filed on the strength of the order passed by the Division Bench of this Court in W.P.No.7281 of 2016 dated 29.02.2016.

3. One Mr.Subramaniam, who was a prisoner, died on 04.04.2014, while he was in Judicial custody. An FIR came to be registered in Cr.No.1028 of 2004, under Section 176 of Cr.P.C., before the 4th respondent Police. Pursuant to the registration of the FIR, an enquiry was conducted by the Sub Divisional Magistrate and Personal Assistant to the Collector, Chennai, by virtue of PSO 151. Enquiry report was submitted before the District Collector and pursuant to the same, Government of Tamil Nadu vide its G.O.Ms.No.1821, dated 28.11.2007, decided to initiate criminal and departmental proceedings against respondents 5 to 7 based on the report filed by the Sub Divisional Magistrate.

4. A private complaint came to be filed before the Chief Metropolitan Magistrate, Egmore, by the Sub Divisional Magistrate pursuant to the above said G.O., and the same was taken on file in CrI.MP.No.4128 of 2014. The learned Chief Metropolitan Magistrate, Egmore, after considering the entire materials placed before the Court, came to a conclusion that no offence has been made out against the accused persons and consequently dismissed the complaint by an order dated 30.06.2014. This order is the subject matter of the challenge in the present Criminal Original Petition.

5.Mr.M.Radhakrishnan, learned counsel appearing on behalf of the petitioner made the following submissions:

- The complaint was dismissed without examining any witnesses and without going through any of the documents.
- The FIR which was registered under Section 176 of Cr.P.C., is pending investigation and therefore a private complaint ought not to have been filed by the Sub Divisional Magistrate and it should not have been entertained and it should have been kept pending till a Final Report is filed by a Police after the investigation. The learned counsel relied upon Section 210 of Cr.P.C., to substantiate this submission.
- The offence is under Section 302 r/w 34 of IPC and it is exclusively triable by a Court of Sessions and therefore the Magistrate should not have heard the complaint and he must have transferred the complaint to the file of the Sessions Court.
- The order passed by the learned Magistrate is contrary to Section 202(2) of Cr.P.C., and Consequentially without jurisdiction.

- The learned counsel in order to substantiate his submissions relied upon the following judgments:
- a) R.Kasthuri .Vs. State & Others reported in [2015 (1) MWN (Cr.) 290]
- b) Rosy and Another .Vs. State of Kerala and Others reported in [2000 (2) SCC 230]
- c) P.Pugalenthil .Vs. State & Others in Crl.O.P.No.24041 of 2013 dated 22.12.2014

6. Mr.C.Emilias, learned Additional Advocate General, appearing on behalf of the respondents 1 and 2 made the following submissions:

- The present case happened in the year 2004 and therefore it is governed by Section 176(1) before amendment and before Section 176 (1)(A) was inserted by Act, 25 of 2005.
- That on filing of the report by the Sub Divisional Magistrate, the FIR itself has come to an end and the pre-amendment does not contemplate an independent investigation by the Police, since Section 176(1) provided that an Executive Magistrate may hold an enquiry into the cause of the death either instead of, or in addition to, the investigation held by the Police.
- In the present case the enquiry was conducted by the Sub Divisional Officer under PSO 151.
- The petitioner does not have the locus standi to maintain this petition and an incident which came to an end in the year 2014 is sought to be revived in the year 2016. This is more so due to the fact that the none of the family members of the deceased expressed any doubt on the death of the above said Subramaniam.
- The complaint itself contained the list of witnesses and the statement recorded from the witnesses formed part of the complaint along with the report of the Sub Divisional Magistrate and also the G.O., passed by the Government and therefore the learned Magistrate had the benefit of the entire materials before him in order to test whether any prima facie case has been made out to entertain the complaint.

- Admittedly, the complaint was given by a public servant and therefore Section 200 proviso (a) itself provides that the Magistrate need not examine the complainant and the witnesses. That apart, proviso (a) to Section 202(1) only gives an option to the Magistrate to examine the witnesses and it is not mandatory for the Magistrate to examine the witnesses in all cases where the complaint is triable exclusively by a Court of Sessions.
- The liberty given to the petitioner by the Division Bench, makes it clear that the petitioner can pursue the remedy if the law permits him and therefore the order of the Division Bench cannot be the deciding factor to test the locus standi of the petitioner.
- The Government has stood by the victim and his family and has gone till the end by filing the criminal complaint against the accused persons and the Court below based on the materials has found that no prima facie case has been made out in the complaint. This order has not been challenged by the family of the deceased and no one has complained any foul play on the part of the Police Officers.
- The learned Additional Advocate General in order to substantiate his arguments, relied upon the following judgments:
 - a) Harsh Mandar .Vs. Amit Anilchandra Shah and Others reported in (2017) 13 SCC 420
 - b) National Commission for Women .Vs. State of Delhi and Another reported in (2010) 12 SCC 599
 - c) P.Ravindran .Vs. State and Others reported in 2010 (3) CTC 73

7. Mr.N.R.Elango, learned Senior Counsel appearing on behalf of the 5th respondent made the following submissions:

- Section 176(1) of Cr.P.C., before the amendment contemplated independent investigation by the Executive Magistrate and it was governed by PSO 151.
- The Postmortem Report clearly reveals the fact that the death of the deceased was caused due to heart attack.
- There was no complaint on the side of the family of the victim and the petitioner has a vested interest in pursuing with this case.

- Proviso to Section 202(1) of Cr.P.C., will not have any application in this case.
- The moment the FIR registered under Section 176 of Cr.P.C., culminates into a report of the Executive Magistrate, the same has to be forwarded to the Government through the Collector by virtue of PSO 151 (5)(b) for further action and in this case the further action was taken by means of a G.O., passed by the Government of Tamil Nadu.

8. This Court has carefully considered the submissions made on either side and the materials placed on record.

9. One primary question which requires to be answered by this Court is regarding the locus standi of the petitioner to maintain this petition, challenging the order passed by the Court below and seeking for consequential reliefs.

10. The term locus standi is commonly understood as the right or the capacity to bring an action or to appear in a Court. The march of law, more particularly by way of public interest litigations, has now allowed any one from the society, not related to the cause of action to approach the Court seeking justice for those who cannot or who could not approach themselves or in cases which involves the public interest at large. Can this concept be applied in criminal proceedings is the moot question that needs to be answered by this Court. It is trite law that any offence is considered to be a wrong committed against the society and that is why prosecution against the accused person is launched by the State. It becomes the duty of the State to prosecute an accused person for the offence committed by him. This traditional view has now been expanded and the law has brought a victim of a crime also on par with the State, while prosecuting in a criminal offence. Section 301, 302, proviso to Section 372 etc., of Criminal Procedure Code, clearly underlines the recognition given to a victim to participate in the criminal prosecution.

11. Can this right which has been extended to a victim, can be further extended to a third party who is not in any way related to the case? The plain and simple answer for this question is "No". If this practice is permitted in a casual manner, a meddlesome bystander can easily decide to attack a person who has been held to be not guilty by a Subordinate Court, by initiating a frivolous proceeding and thereby cause irretrievable injury to the life and liberty of the accused person. The Only area where the Code of Criminal Procedure does not insist for locus standi is when the law is set in

motion. For instance, for an IPC offence, the law can be set in motion even by a rank third party since an information regarding a cognizable offence is enough for the police to register an FIR under Section 154 of Cr.P.C., or for a Magistrate to take cognizance of an offence under Section 190 of Cr.P.C. Even under the Code of Criminal Procedure, while granting right to file an appeal against an acquittal, the legislature thought it fit to circumscribe this right by imposing a condition to seek leave/special leave before entertaining the appeal. The fetters so imposed on the right to appeal is prompted by the reluctance to expose a person, who has been acquitted/discharged by a competent Court.

12. The only exception that has been created in this regard is by the Hon'ble Supreme Court which has held that third parties will have rights, in very exceptional cases, to approach the Hon'ble Supreme Court under Article 136 of the Constitution of India. Useful reference can be made to the judgment of the Hon'ble Supreme Court in *Amanullah and Another .Vs. State of Bihar and Others* reported in (2016) 6 SCC 699 in this regard.

13. It will be relevant to take note of certain judgments before further dealing with this issue.

I. P.Ravindran .Vs. State and Others reported in 2010 (3) CTC 73. The relevant portions are extracted hereunder:

"27. As contended by the learned counsel appearing for the revision petitioner, he being a citizen of this country can file a Criminal Complaint against a person holding a public office, if a case is made out, so as to attract the provisions of the Prevention of Corruption Act. Based on the complaint given by the de-facto-complainant, case can be registered by the State. In case of discharge or acquittal, the State being the complainant can prefer Appeal against acquittal or discharge, even in case of Appeal not preferred by the State, the de-facto-complainant, who had set the law into motion against the public servant can prefer Criminal Revision against acquittal or discharge, but a third party cannot maintain a Revision Petition against acquittal or discharge.

28. In the instant case, admittedly, neither the complainant namely the State represented by the Deputy Superintendent of Police, Vigilance and Anti-Corruption Wing, Cuddalore, nor the de-facto-complainant has preferred any Appeal or

Revision against the discharge recorded by the Court below, the petitioner herein, a third party to the criminal proceeding has preferred this Revision. Relying on the decision reported in J.M. Arumugam and another v. State, 2009 (2) MWN (Cr.) 95, learned counsel appearing for the respondents submitted that the permission sought for by the petitioner to maintain the Criminal Revision, is only right of subrogation which is nothing but stepping into the shoes of the State or the de-facto-complainant, which is not permissible in a criminal proceeding. As per P. Ramanatha Aiyar; Law Lexicon, Second Edition, the meaning of the term 'Subrogation' is given as 'substitution of one person in the place of another', with reference to lawful demand or right. As per Law of Indemnity, after making payment to the victim in a motor accident case, or after making payment, as per insurance coverage for the loss of goods in a consignment, by way of subrogation the concerned Insurance Company can step into the shoes of the person for whom it was made to pay damages therein and maintain the claim against the person, who caused the loss to the Insurance Company. As per the Criminal jurisprudence the State has prosecuted the case, based on the Complaint by assuming the role of the victim, as a crime is a wrong against the entire society. However, if it is a private wrong, it can be construed only as a tort for which, the affected party alone can seek the remedy by claiming damages. In a Criminal case, for the benefit of a convicted accused, one can maintain public interest litigation to meet the ends of justice, in order to safeguard human rights, however, the same would not be available to any third party to proceed against the accused, based on the Complaint given by a de-facto complainant and if it is permitted that would amount to opening of the flood gate, whereby permitting private persons, seeking remedy for their private vengeance and there would be no end for the same.

29. It is a settled preposition of law that a Criminal proceeding cannot be used as an instrument of wrecking a private vengeance either on political reason or otherwise by a third party to the Criminal proceeding. As the order of discharge was recorded by the Court

below, the State being the complainant or the de-facto-complainant, could have preferred the Appeal or Revision against the order of discharge recorded by the Court below. Though the revision petitioner could have maintained an independent Complaint against the second respondent in M.P. No. 2 of 2008 in CrI. R.C. SR. No. 39510 of 2008, who was holding a public office, he cannot maintain the Revision, based on the Complaint given by the de-facto-complainant, which was proceeded by the State and was subsequently ended in discharge. Considering the vital legal aspects, in the light of the various rulings of the Honourable Supreme Court, I am of the view that the petitioner/third party to a Criminal proceeding is not legally entitled to maintain Criminal Revision against discharge or acquittal recorded by the Trial Court, unless he is also an aggrieved person.

II. National Commission for Women .Vs. State of Delhi and Another reported in (2010) 12 SCC 599. The relevant portions are extracted hereunder:

"13. In P.S.R. Sadhanantham v. Arunachalam this Court was dealing with the locus standi of a private person, in this case the victim's brother, who was neither a complainant nor a first informant in the criminal case but had filed a petition under Article 136 of the Constitution of India. This Court observed that the strictest vigilance was required to be maintained to prevent the abuse of the process of court, more particularly, in criminal matters, and ordinarily a private party other than the complainant, should not be permitted to file an appeal under Article 136, though the broad scope of the article postulated an exception in suitable cases. It was spelt out as under: (SCC p. 145, para 7)

"7. Specificity being essential to legality, let us see if the broad spectrum spread out of Article 136 fills the bill from the point of view of 'procedure established by law'. In express terms, Article 136 does not confer a right of appeal on a party as such but it confers a wide discretionary power on the Supreme Court to interfere in suitable cases. The discretionary dimension is considerable but

that relates to the power of the court. The question is whether it spells by implication, a fair procedure as contemplated by Article 21. In our view, it does. Article 136 is a special jurisdiction. It is residuary power; it is extraordinary in its amplitude, its limit, when it chases injustice, is the sky itself. This Court functionally fulfils itself by reaching out to injustice wherever it is and this power is largely derived in the common run of cases from Article 136. Is it merely a power in the court to be exercised in any manner it fancies? Is there no procedural limitation in the manner of exercise and the occasion for exercise? Is there no duty to act fairly while hearing a case under Article 136, either in the matter of grant of leave or, after such grant, in the final disposal of the appeal? We have hardly any doubt that there is a procedure necessarily implicit in the power vested in the summit court. It must be remembered that Article 136 confers jurisdiction on the highest court. The Founding Fathers unarguably intended in the very terms of Article 136 that it shall be exercised by the highest judges of the land with scrupulous adherence to judicial principles well established by precedents in our jurisprudence. Judicial discretion is canalised authority, not arbitrary eccentricity."

14. The Court then examined the implications of completely shutting out a private party from filing a petition under Article 136 on the locus standi and observed thus: (Arunachalam case [(1980) 3 SCC 141 : 1980 SCC (Cri) 649] , SCC p. 147, para 14)

"14. Having said this, we must emphasise that we are living in times when many societal pollutants create new problems of unredressed grievance when the State becomes the sole repository for initiation of criminal action. Sometimes, pachydermic indifference of bureaucratic officials, at other times politicisation of higher functionaries may result in refusal to take a case to this Court under Article 136 even though the justice of the lis may well justify it. While 'the criminal law should not be used as a weapon in personal vendettas between private individuals', as Lord Shawcross once wrote, in the absence of an independent prosecution authority easily

accessible to every citizen, a wider connotation of the expression 'standing' is necessary for Article 136 to further its mission."

15. A reading of the aforesaid excerpts from the two judgments would reveal that while an appeal by a private individual can be entertained but it should be done sparingly and after due vigilance and particularly in a case where the remedy has been shut out for the victims due to mala fides on the part of the State functionaries or due to inability of the victims to approach the Court. In the present

matter, we find that neither the State which is the complainant nor the heirs of the deceased have chosen to file a petition in the High Court. As this responsibility has been taken up by the Commission at its own volition this is clearly not permissible in the light of the aforesaid judgments".

III. Harsh Mandar .Vs. Amit Anilchandra Shah and Others reported in (2017) 13 SCC 420. The relevant portions are extracted hereunder:

42. Reverting to the case in hand, it is not in dispute that the applicant is neither a victim nor an aggrieved person. He is not in any manner connected with the proceedings pending before the learned Sessions Court, Greater Bombay. The applicant has not suffered any prejudice and has not demonstrated that his legal rights are impaired or any harm/injury is caused to him or is likely to be caused. The applicant has thus not been able to demonstrate that his legal right has been invaded so as to give him locus standi to challenge the order.

43. The applicant who claims to be a socially responsible citizen has allegedly filed this application for preventing abuse of process of court. It is pertinent to note that though the alleged incident had occurred in the year 2005, and no case was registered against Respondent 1 and the other police officers, the applicant herein had not shown any interest to set the criminal law in motion. The said crime was registered only pursuant to the directions

given by the Honourable Supreme Court in view of the letter of grievance made by Rubabbuddin, the brother of the deceased".

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14. It is clear from the above judgments that a rank third party to the proceedings who is neither a victim nor an aggrieved person, cannot be permitted to prosecute criminal proceedings. In the present case, it is not in dispute that the petitioner forum is neither a victim nor an aggrieved person. This petitioner is in no way connected with the proceedings that was initiated by the Sub Divisional Magistrate in the year 2014. The petitioner forum has not suffered any prejudice and its rights are not in any way impaired or it is not a case where the aggrieved person/victim is not able to approach this Court and on their behalf the forum is ventilating their grievance. It is very important for this Court to bear in mind that this Court is not dealing with a public interest litigation in this case and the powers of this Court is well defined under the Code of Criminal Procedure and this Court cannot act beyond the four corners of law.

15. In this case the incident took place in the year 2004 wherein a remand prisoner died while in judicial custody. An enquiry was conducted by the Sub Divisional Magistrate under PSO 151 and a report was submitted to the District Collector and he in turn has forwarded it to the Government. The Government has passed a G.O. in G.O.Ms.No.1821, dated 28.11.2007, directing the District Collector to initiate criminal proceedings against the accused persons. A criminal complaint came to be filed before the Chief Metropolitan Magistrate Court, Egmore in the year 2014, and the concerned Court based on the materials available before it has dismissed the complaint by an order dated 30.06.2014. This order has not been challenged by anyone on the side of the deceased. The petitioner forum took upon itself

the task of challenging the order passed by the Chief Metropolitan Magistrate, Egmore in the year 2016, by way of filing the present petition.

16. It is true that the petitioner forum earlier challenged the very same order passed by the Chief Metropolitan Magistrate, Egmore by filing a public interest litigation before this Court in W.P.No.7281 of 2016, and this Court closed the writ petition by giving liberty to the petitioner to challenge the order of the Court below in accordance with law. This order is heavily relied upon by the learned counsel for the petitioner in order to sustain the locus standi of the petitioner. A Court cannot confer a right upon any person unless it is backed by law. In other words, the law must recognise the right of a person and only then the concerned person can prosecute a case. If the law does not provide for such a right, the Court cannot confer the same in favour of any person. The Division Bench merely said that the petitioner can prosecute his right in accordance with law. Criminal law does not permit any third party to prosecute a case unless the concerned person is a victim or is in any way aggrieved by the order. In other words, the petitioner must show that its legal rights is impaired or any harm/injury has been caused to it. Unless this condition is satisfied, the petitioner will not have the locus standi to question the order passed by the learned Chief Metropolitan Magistrate, Egmore.

17. In view of the above findings, this Court is of the considered view that the petitioner does not have the locus standi to maintain this petition and this petition has to be dismissed on this ground alone.

18. Since it is a case of death that has been happened while the deceased was in judicial custody, this Court wanted to satisfy itself as to whether there are any materials to implicate the accused persons for the death of the remand prisoner.

19. The remand prisoner Subramaniam was taken to the Government Hospital at Royapettah at about 5.10 p.m., on 04.04.2004 and he was declared as brought dead. An autopsy was conducted and the Postmortem Report and the Final Opinion given by the doctor shows that the deceased had died of acute heart failure due to coronary artery disease and the death was declared to be a natural death and not due to any injuries sustained by the deceased. This finding of the postmortem doctor has not been challenged by anyone belonging to the family

of the deceased. The Government of Tamilnadu took upon itself the task of finding out the real cause of death, and therefore proceeded to pass a G.O., authorising criminal proceedings against the accused persons.

20. A private complaint came to be filed before the Chief Metropolitan Magistrate, Egmore. The learned Chief Metropolitan Magistrate, Egmore perused the statement of the witnesses recorded by the Sub Divisional Magistrate [17 witnesses] and also the report of the Sub Divisional Magistrate and the G.O., passed by the Government and came to a conclusion that there are no materials to proceed further with the criminal proceedings and dismissed the complaint by an order dated 30.06.2014.

21. It will be relevant to extract the relevant portions of the order passed by the Chief Metropolitan Magistrate, for proper appreciation of the order.

"5. On perusal of the records, it is seen that the remand prisoner Subramaniam was died on 04.04.2004, i.e., in the year 2004 and the above said final report in Na.KA.G4.20256/04, dated 16.03.2006 was submitted during the year 2006 itself. But, the present complaint was filed before this Court during the year 2011, i.e., after 5 years.

6. In the complaint it is stated that on 04.04.2005, A1 sent the remand prisoner Subramaniam to Government Royapettah Hospital, Chennai with escort team at about 5.10 p.m. as per the advice given by the Medical Officer of Central Prison and that the remand prisoner was declared as brought dead at the casualty in the Government Royapettah Hospital, Chennai at about 5.50 p.m., on the same day. It is further stated that the Medical Officer who had conducted autopsy over the corpse of the deceased remand prisoner has mentioned that the injuries found in the post-mortem certificate dated 05.04.2004 and the then Sub Divisional Magistrate and Personal Assistant (ULT) to the Collector, Chennai, has come to the conclusion that the injuries found over the corpse of the deceased might have caused the death and thus fixed responsibility over the above same 3 individuals and prayed to take the complaint on.

7. The copy of the final report of the Sub Divisional Magistrate and Personal Assistant (ULT) to the Collector, Chennai in Na.Ka.G4.20256/04, dated 16.03.2006 perused. IN

the said final report it is stated as follows:

'விசாரணை சிறைவாசி சென்னை மத்திய சிறைக்கு 14.2004 அன்று வந்த நேரம், விசாரணை சிறைவாசிகள் பிளாக்கில் இருந்த கால அளவு, சிறை மருத்துவமனையில் உள்நோயாளியாக இருந்த கால அளவு ஆகியவற்றை கருத்திற்கொண்டு ஆராய்ந்ததில் விசாரணை சிறைவாசி காவல் துறையினர் மற்றும் சிறைத் துறையினர் துன்புறுத்தலுக்கு ஆளாகியுள்ளார் என்பதற்கு எந்த முகாந்திரமும் இல்லை.இந்நிகழ்வில் விசாரணை சிறைவாசி எண்.10403 சுப்பிரமணியம் த/பெ.செம்மலை கவுண்டர் காவல் துறையினர், சிறைத் துறையினர் காரணமாக இறக்கவில்லை யென்றும் அவர் மரணத்தில் எவர் மீதும் சந்தேகமில்லை யென்றும், உடலில் உள்ள காயங்கள் காரணமாக மரணம் சம்பவிக்கவில்லை யென்றும், அவரது மரணம் இயற்கையான தென்றும், முடிவுக்கு வருகின்றேன்' .

In the final report it is further stated as follows:

இரசாயன பகுப்பாய்வு அறிக்கையில் இறப்புக்கான காரணம் கீழ்க்கண்டவாறு குறிப்பிடப்பட்டுள்ளது.

Final Opinion: The deceased would appear to have died of Acute heart failure due to Coronary artery disease.(Natural cause).

From the above report, it is clear that the death of the remand prisoner Subramaniam is not due to Police or Prison authorities and his death was natural cause due to acute heart failure.

8.Moreover, after considering the facts petition is substantiated by other facts and evidence are considered whether there is any other evidence on record to proceed. After careful perusal and gone through the complaint, argument and other connected records produced by the complainant side in this case, the postmortem report filed by the prosecution in the case, it is seen that the report and statement of Doctor is very clear that the death is due to heart attack and not due to the injuries. The enquiry conducted by the

predecessor of the complainant as Enquiry Officer submitted the report after full enquiry that there is no evidence or findings to disclose the fact that the deceased did not die due to the injuries, but of natural death. Moreover, except that petition, no material is produced or lists of evidence or statements of

the witnesses is produced to show that whether they had caused injuries or by whom and overtact are not produced by evidence or records. So, there is no prima facie material available in the complaint against the accused persons".

22. This Court has carefully considered all the materials that are available and it is found that except for some adverse findings recorded by the Sub Divisional Magistrate in her report, there is no material to come to the conclusion that the deceased had died while in judicial custody due to any violence. The Postmortem Report itself clearly shows that there are no corresponding internal injuries sustained by the deceased and the external injuries found were injuries that happened post the death of the deceased while dealing with the dead body. The Final Opinion itself clearly shows that the deceased died due to heart failure and it was a natural death.

23. The State of Tamil Nadu had taken upon itself the task of taking forward this case to its logical end and did not deem it fit to challenge the Order passed by the learned Chief Metropolitan Magistrate, Egmore. The victim's family also did not chose to challenge the order of the learned Chief Metropolitan Magistrate. It was only the petitioner forum which took upon itself the task of challenging this Order and this Court has already held that the petitioner does not have the locus standi to maintain this petition.

24. In view of the above finding, this Court does not want to go into the various legal issues raised before this Court on the procedure followed by the learned Magistrate while dealing with the complaint, since this Court is dismissing this petition on the ground that the petitioner does not have the locus standi to maintain the petition and also on the ground that this Court did not find any materials to interfere with the Order passed by the learned Chief Metropolitan Magistrate, Egmore. The discussion and findings on the other legal issues touching upon the procedure, will only be an academic exercise and this Court does not want to venture into that exercise.

25. In the result, this Court does not find any merits to entertain this petition, and as a consequence this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

KP

To

1. The Secretary to Government,
Home Department,
Secretariat, Chennai-600 009.
 2. The District Collector,
Chennai District,
Chennai Collectorate,
Chennai 600 001.
 3. The Sub Divisional Magistrate &
Personal Assistant (ULT) to the Collector,
Chennai Collectorate, Chennai 600 001.
 4. The Inspector of Police,
F-1, Chintadripet Police Station,
Chintadripet, Chennai 600 002.
 5. Mr.V.Karuppannan,
Jailor (in charge),
Chennai Central Prison (Remand),
Chennai,
presently working as
Deputy Inspector General of Prisons (Chennai Range),
Thalamuthu Natarajan Maaligai,
Egmore, Chennai-600 008.
 6. Mr.C.Rathan,
Assistant Jailer,
Chennai Central Prison (Remand),
Chennai.
 7. Mr.C.Manickam,
formerly Dy. Superintendent of Police,
State Human Rights Commission, Chennai.
 8. The Chief Metropolitan Magistrate, Egmore.
 9. Public Prosecutor,
High Court, Chennai.
- +2 ccs to Mr.M.Radhakrishnan, Advocate, S.R.No.62157
+1 cc to Mr.R.Vivekananthan, Advocate, S.R.No.62424
+1 cc to Mr.A.Gokulakrishnan, Advocate, S.R.No.62747

Cr1.OP No.8744 of 2016

PM(CO)
SSM(14/08/2019) .