

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2019

CORAM:

THE HON'BLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.34476 of 2018

S.Krishnaveni

... Petitioner

Vs.

1.The Inspector of Police,
F-5, Choolaimedu Police Station,
Choolaimedu, Chennai - 600 094.

2.The Assistant Commissioner of Police,
Crime Records Bureau,
Egmore, Chennai - 600 008.

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to provide "Not Traceable Certificate of S.Prakash" in Cr.No.1152 of 2010 on the file of the first respondent.

For Petitioner : M/s.Shivakumar & Suresh

For Respondents : Mr.M.Mohamed Riyaz for R.1 & R.2
Additional Public Prosecutor

O R D E R

This writ petition has been filed for a direction to the respondent police to issue a "Non Traceable Certificate" to the petitioner on the ground that the petitioner's son S.Prakash went missing from 02.06.2010 onwards and the F.I.R in Crime No.1152 of 2010 is pending for the last 8 years without any progress.

2. The learned counsel for the petitioner would submit that the petitioner's husband died on 25.08.2018 and the petitioner has to produce the Legal heirship Certificate in order to get the petitioner's name recorded in various records and bank accounts. For this purpose, the petitioner requires a "Non Traceable Certificate" for the missing son.

3. The relief as sought for by the petitioner is not maintainable. Since a "Non Traceable Certificate" can never be issued for a Human Being. This Court in the case of [Shanthi vs.The Superintendent of Police] reported in (2018 2 LW CrI. 636) has given detailed guidelines with regard to the manner in which man missing complaint will have to be dealt with by the police.

4. The police can follow these guidelines and they cannot issue a "Non Traceable Certificate" as sought for by the petitioner. In order to raise a presumption of legal death, the petitioner has to approach the appropriate Civil Court and satisfy the requirements of Section 107 and 108 of the Indian Evidence Act, 1872 and get an appropriate relief. This relief can never be given by the respondent police.

5. This writ petition is disposed of with the direction to the 1st respondent to follow the guidelines given by this Court in the judgment referred supra and proceed further with the investigation in accordance with law. The petitioner is also given the liberty to workout her rights before the appropriate Civil Court. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsp/rka

To

- 1.The Inspector of Police,
F-5, Choolaimedu Police Station,
Choolaimedu, Chennai - 600 094.
- 2.The Assistant Commissioner of Police,
Crime Records Bureau,
Egmore, Chennai - 600 008.
- 3.The Public Prosecutor,
High Court of Madras.

+1 cc to M/s.Shivakumar & Suresh, Advocate Sr.No.454

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VGII(CO)
CSL/29.01.2019