



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD)No.5059 of 2020
and
W.M.P. (MD)No.4383 of 2020

Amutha Rani

... Petitioner

Vs

1.The District Collector Cum District Magistrate,
Trichy District,
Trichy.

2.The Deputy Director of Prosecution,
O/o.Deputy Director of Prosecution,
21, Anaikatti Maidan,
Beema Nagar,
Trichy - 620 001.

3.The Inspector of Police,
All Women Police Station,
Fort,
Trichy District.

... Respondents

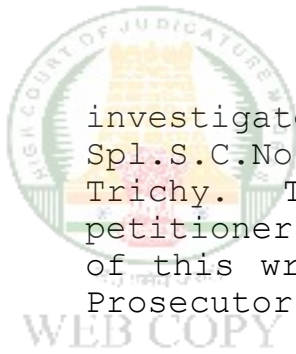
PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to appoint the Eminent Senior Advocate on the Criminal Side as a Special Public Prosecutor to conduct the trial in Spl.S.C.No.44 of 2019 on the file of the Mahila Court, Trichy.

For Petitioner : Mr.R.Ganeshparbhu

For Respondents : Mrs.M.Ananthadevi
Govt. Advocate (Crl. Side)

ORDER

The petitioner is the defacto complainant in Crime No.4 of 2019 registered on the file of All Women Police Station, Fort, Trichy, for the offences under Sections 7 and 8 of Protection of Children from Sexual Offences Act and Section 506(i) of I.P.C. The victim was aged about 16 years during the relevant time. The case was



investigated and final report was filed and taken on file in Spl.S.C.No.44 of 2019 on the file of the learned Mahila Court, Trichy. The sole accused is said to be a practising lawyer. The petitioner for the reasons set out in the affidavit filed in support of this writ petition wants this Court to appoint a Special Public Prosecutor for conducting the case.

2.As rightly pointed by the learned Government Advocate (Crl. Side), there is no provision in POCSO Act corresponding to Section 15 of SC/ST (POA) Act, 1959. Nevertheless, the first respondent would have the power to consider the petitioner's request. Section 31 of POCSO Act states that the provisions of Cr.P.C. will apply to the Special Court. Section 32 of POCSO Act speaks about the appointment of learned Special Public Prosecutor for every Special Court for conducting cases only under POCSO Act.

3.Section 24(8) of Cr.P.C., is not excluded. Therefore, it is open to the first respondent to consider the petitioner's request for appointing a Special Pubic Prosecutor for conducting the instant case. The apprehension of the petitioner is that the accused happens to be a practising member of the Trichy bar. Therefore, the first respondent is directed to consider the representation dated 18.02.2020 made by the petitioner herein and pass appropriate order on merits and in accordance with law within a period of two weeks from the date of receipt of a copy of this order. The next hearing date is 09.04.2020. The first respondent is directed to pass an order in this regard well before the said date.

4.The writ petition is disposed of on these terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar

To:

- 1.The District Collector Cum District Magistrate,
Trichy District, Trichy.
- 2.The Deputy Director of Prosecution,
O/o.Deputy Director of Prosecution,
21, Anaikatti Maidan, Beema Nagar,
Trichy - 620 001.



3.The Inspector of Police,
All Women Police Station,
Fort, Trichy District.

4 The Government Advocate (Crl.Side)
Madurai bench of Madras High Court, Madurai.

+1 CC to M/s.R.GANESH PRABHU, Advocate (SR-10975[F] dated
11/03/2020)

W.P. (MD)No.5059 of 2020

10.03.2020

IAS

MS/PN/SAR-1/12.03.2020/3P.6C