



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.08.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**

W.P. (MD)No.7566 of 2020

and

W.M.P. (MD)No.7055 of 2020

Kandasamy

... Petitioner

Vs.

1.The Home Secretary,
Government of Tamil Nadu,
Secretariat,
St.George Fort, Chennai.

2.The Direct General of Police,
Office of the Director General of Police,
Dr.Rathakrishnan Salai, Mylapore,
Chennai.

3.The Superintendent of Police,
Office of the Superintendent of Police,
Trichy District.

4.The Dean,
Annal Gandhiadigal Memorial Government Hospital,
Trichy.

5.The Inspector of Police,
All Women Police Station,
Manapprai, Trichy District.

6.The Inspector of Police,
Vaiyampatti Police Station,
Manapparai, Trichy District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to exhume the body of the deceased and direct the fourth respondent to conduct re-postmortem and DNA test to the deceased i.e., Annakili through two senior professors from Forensic Department and in the presence of independent expert Forensic Doctor on the petitioner's side under full video coverage within a stipulated time.



For Petitioner : Mr.D.Haroon Rasheed
For Respondents : Mr.S.Chandrasekar
Additional Public Prosecutor

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O R D E R

This writ petition has been filed seeking a direction to direct the fourth respondent to conduct re-postmortem and DNA test to the deceased i.e., Annakili through two senior professors from Forensic Department and in the presence of independent expert Forensic Doctor.

2.The case of the petitioner is that the petitioner's son, namely, Ramki is an accused in crime No.10 of 2020, dated 29.05.2020 registered for the offence punishable under Sections 294(b), 506(i) IPC and Sections 3(a), 4, 5(j) (ii), 6 of POCSO Act, 2012. The said case was registered by the sixth respondent, based on the complaint given by the deceased Annakili. The said deceased Annakili is a minor girl, aged about 17 years. Only based on the compulsion of her father, namely, Thangavel, the deceased Annakili lodged a false complaint against the petitioner's son. In earlier, when at the time of disposing the anticipatory bail petition filed by the petitioner's son, the learned Mahila Court, Trichy, granted anticipatory bail with a direction to co-operate for DNA test and for Potential test. After completing the condition stipulated in the order passed by the learned Mahila Court, the Inspector of Police, All Women Police Station, Manapparai, instructed the petitioner's son to come to the office of Deputy Superintendent of Police, Manapparai, for enquiry and during the time of investigation, on 23.05.2020, the petitioner's son was brutally attacked by the deceased's father. In fact, the minor girl was working in cotton mill and having relationship with one co-male employee and got conceived. After knowing the original fact, the father of the deceased suppressed all the incident and lodged a false complaint as against the petitioner's son with cock and bulls stories.

3.In the said circumstances, in order to prove the innocence of the petitioner's son, DNA test related to the petitioner's son and the victim girl is necessary. However, when the respondent police taking samples from the petitioner as well as from the victim girl on 08.07.2020, the victim girl was died, for which, a case has been registered against the son of the petitioner in crime No.748 of 2020 for the offence punishable under Sections 305 IPC and 4 of Tamil Nadu Prohibition of Women Harassment Act. After registration of the case, the dead body of the deceased Annakili was buried in a hurry manner. Though the petitioner's son sent a representation to all



the respondents for conducting re-postmortem for the purpose of DNA test, they were not considered the request made by the petitioner's son. Therefore, the petitioner filed this petition seeking the aforesaid prayer.

4.Today, when the petition is came up for hearing, the learned Additional Public Prosecutor appearing for the respondents would submit that during the time of postmortem, it was found by the Doctors that the deceased Annakili, was in the advance stage of pregnancy and fetus was about seven months. Further, right thigh bone of the fetus and the deceased's viscera had taken for the purpose of DNA test and the same was sent to the Forensic Department. Therefore, the purpose for the second postmortem has already been fulfilled by the respondent police and hence, there is no necessity for the second postmortem of the deceased Annakili.

5.Upon considering the arguments advanced by the learned counsel on either side, it is not in dispute that this writ petition has been filed to prove the innocence of the petitioner's son in the alleged crime, for which, it is necessary to find out the fetus found in the dead body of Annakili is related to the petitioner's son. In this regard, it is proved on the side of the prosecution that sample was harvested from the fetus and the same was sent to the Forensic Department for DNA test. In otherwise, in this writ petition, the petitioner has not stated any specific reason for conducting second postmortem.

6.It is made clear that already the prosecution had initiated steps to prove the case by producing postmortem report and thus, the purpose for which, this writ petition is filed had already been considered by the respondents. Hence, no further order is required in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Accounts)

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Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



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