



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Friday, the Eighteenth day of September Two Thousand Twenty

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

WMP(MD) No.10231 of 2020
IN
WP(MD) No.11823 of 2020

VIMALA

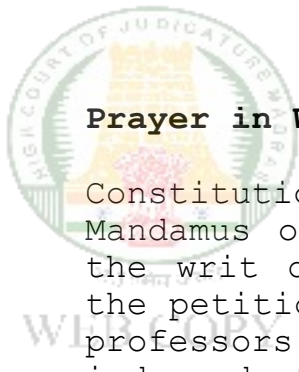
... PETITIONER

Vs

- 1.THE HOME SECRETARY,
HOME DEPARTMENT,
GOVERNMENT OF TAMIL NADU,
SECRETARIAT, CHENNAI-9.
- 2.THE DIRECTOR GENERAL OF POLICE,
DGP OFFICE, MYLAPORE,
DR.RADHAKRISHNAN SALAI,
CHENNAI-5
- 3.THE DEAN GOVERNMENT HOSPITAL,
DINDIGUL.
- 4.THE SUPERINTENDENT OF POLICE,
O/O.COMMISSIONER OF POLICE, DINDIGUL.
- 5.THE DEPUTY SUPERINTENDENT OF POLICE,
DINDIGUL RANGE, DINDIGUL.
- 6.THE INSPECTOR OF POLICE,
VIRUVEEDU POLICE STATION,
DINDIGUL.

... RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to issue an Ad-interim Direction directing the 3rd respondent to conduct re-postmortem of the petitioner's husband namely Manikandan body through a two senior professors from Forensic Department and in the presence of an independent expert forensic Doctor from petitioner's side under the full video coverage based on petitioner's representation, dated 14.9.2020 pending disposal of the present writ petition.



Prayer in WP(MD) . 11823/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Mandamus or any other writ or order or direction in the nature of the writ directing the 3rd respondent to conduct re-postmortem of the petitioner's husband namely Manikandan body through a two senior professors from Forensic Department and in the presence of an independent expert forensic Doctor from petitioner's side under the full video coverage based on petitioner's representation, dated 14.9.2020 within a stipulated time that may be fixed by this court and consequently direct the 2nd respondent withdraw the investigation in Crime No.789 of 2020 pending on the file of 6th respondent of police and transfer the same and entrust the investigation to the 5th respondent with direction to investigate the case in accordance with law.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.M.JERIN MATHEW, Advocate for the petitioner and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondents, the court made the following order:-

This Miscellaneous Petition is filed seeking direction, to direct the third respondent to conduct re-postmortem of the body of the petitioner's husband, by name, Manikandan, through two Senior Professors from Forensic Department and in the presence of an independent Expert Forensic Doctor from the petitioner's side under full video coverage, within a time to be stipulated by this Court.

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

3.The case of the petitioner is that she is the wife of the deceased viz., Manikandan. The petitioner and the deceased were residing in the petition mentioned address for the past several years. Further, they had been blessed with two male children. On the day of occurrence, the deceased went missing and he could not be even traced when called him on his mobile phone. While the matter stood thus, at about 06.00 a.m., the petitioner heard a noise from the house of one Suthalaxmi and when the petitioner along with her children rushed to the place, the petitioner found that her husband was hanged to death. On seeing the dead body of the deceased, the petitioner found a stab injury in his neck and several bruises in the lower stomach, thereby, the petitioner came to understand that the death is not due to suicide. Further, after seeing the dead body of her husband, the persons, who are all present in the occurrence place, were not permitted the petitioner to touch the dead body of her husband. Even the sixth respondent Police, who came to the occurrence place immediately, had also not permitted the petitioner to touch the dead body.

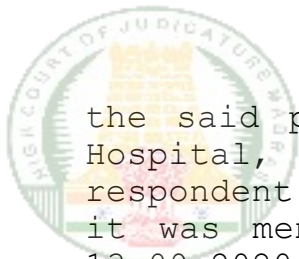


4.The further case of the petitioner is that the sixth respondent after came to the occurrence place, without giving any information to the petitioner or to the relative of her husband, had taken the body of the petitioner's husband to the third respondent hospital and conducted postmortem. More than that, after conducting postmortem, the sixth respondent Police had given a report stating that the cause of the death is due to suicide. Since the dead body is having several stab injuries and other injuries, it cannot be said that the petitioner's husband had committed suicide. Therefore, the petitioner refused to receive the dead body of her husband. However, the sixth respondent Police had taken the dead body of the petitioner's husband from the hospital at their own, when none of the persons had claimed the dead body. The vehicle carrying the dead body was stopped in the middle, therefore, again, it was sent to the hospital. When that being so, the sixth respondent Police took the dead body to the Theni Medical College at Kanavilakku and thereafter, again the same was brought to the third respondent College. Therefore, the manner of investigation conducted by the sixth respondent creates a doubt that he attempted to screen the evidence, which is necessary to find out the real cause of death. Accordingly, she prays for second postmortem.

5.In response to the averments found in the affidavit filed by the petitioner, the learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that after registration of the F.I.R., the sixth respondent conducted inquest on the body of the deceased only in accordance with law and thereafter, the dead body was handed over to the Doctor with a requisition to conduct postmortem. The said mode of investigation conducted by the sixth respondent is not against the rule provided.

6.On considering the rival submissions, the first and foremost contention raised by the learned counsel appearing for the petitioner is that without preparing the inquest report, the dead body was handed over to the Medical Officer for conducting postmortem. Further, the injuries, which have been seen by the petitioner are not at all noted in the postmortem report, which had been prepared by the Medical Officer, Batlagundu, who conducted the postmortem.

7.Upon considering the submissions made by the learned counsel appearing for the petitioner, it would be relevant to see the copy of the inquest report, which has been prepared by the sixth respondent. The entries made in the inquest report are very clear that the inquest was commenced on 13.09.2020 at 10.30 a.m. and completed at 12.25 p.m. Further, the said inquest report has been prepared in the Mortuary attached with the Government Hospital, Baltagundu. In usual, it is the duty of the Police Officer to prepare inquest report immediately after seeing the dead body in the mortuary. But, in this case, in stead of complying



the said procedure, the dead body was taken up to the Government Hospital, Batlagundu, for the reason best known to the sixth respondent. More than that, in the copy of the postmortem report, it was mentioned that the body was first seen by the Doctor on 13.09.2020, at 12.30 p.m. In the said circumstances, when the dead body was handed over to one Balamurugan, Grade - I Police Constable on 13.09.2020 at 12.25 p.m. with a direction to hand over the same for postmortem, it cannot be possible to receive the dead body by the Doctor, who conducted postmortem on 13.09.2020 at 12.30 p.m. One another aspect, which is in favour of the petitioner is that, in respect of the external injuries found in the dead body, the Doctor, who conducted the postmortem has mentioned in his postmortem report as there was a ligature abrasion of 18 x 2 c.m. in front of the neck above thyroid cartilage, measuring 8 c.m. from chin, 6 c.m. from suprasternal notch right end, 7 c.m. from right mastoid left end, 3 c.m. from left mastoid, posterior end merging with hair line behind the neck. In otherwise, he had not pointed out any external injuries except the above referred one. Further, during the time of dissection also, he has not found any external injury, which may cause the death. He has specifically mentioned in the postmortem report except the ligature abrasion in front of neck, no other external injuries over the neck. If really, the deceased committed suicide by using Saree, there is no chance for the said injuries, which were found around the neck. More than that, the petitioner alleges that when at the time of seeing her husband, he sustained an incised wound in the neck, but that injury was not noted in the postmortem report given by the Doctor.

8. One another interesting point, which has to be necessarily considered in this case is, initially, for the death of the petitioner's husband, a case has been registered under Section 174 Cr.P.C. Therefore, it is necessary on the part of the sixth respondent Police to intimate the occurrence to the nearest Executive Magistrate empowered to hold inquest. But, in this case, the entire perusal of the C.D. file reveals that no such intimation was given to the Executive Magistrate. In this regard, it is necessary, to see Section 174(1) Cr.P.C., which reads as follows:-

''174. Police to enquire and report on suicide, etc.

(1) When the officer in charge of a police station or some other police officer specially empowered by the State Government in that behalf receives information that a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the State Government, or by any general or



Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.''

9.In this area also, the sixth respondent had not followed the rules contemplated in respect of the inquest to be conducted for the cases registered under Section 174 Cr.P.C.

10.Therefore, in view of the above discussion, this Court is of the considered opinion that the prayer sought for by the petitioner is a reasonable one. Only, in the said circumstance, if the second postmortem is conducted, the truth in respect of the cause of death will come. Hence, Dr.T.Selvaraj, H.O.D., Forensic Medicine, Madurai Rajaji Government Hospital, Madurai, Dr.Sadhasivam and Dr.Rama, Assistant Professors, Department of Forensic Medicine, Madurai Medical College, Madurai, are appointed and they are directed to conduct re-postmortem on the body of the petitioner's husband. The Dean, Medical College, Madurai, is directed to make necessary arrangements for videographing the postmortem as per the norms.

11.The Doctors, who are named, shall be given all the facilities for conducting autopsy/re-postmortem at the Madurai Medical College Hospital, Madurai. The Hospital Authorities also are directed to co-operate for implementing this order in letter and spirit. Since the objection of the petitioner was only on the apprehension, which is expressed in the Petition, the petitioner is directed to accept the body of her husband as her grievances are redressed by passing this order.

12.With the above observation, this Miscellaneous Petition is disposed of.

sd/-
18/09/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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



TO

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HOME DEPARTMENT,
GOVERNMENT OF TAMIL NADU,
SECRETARIAT, CHENNAI-9.
2. THE DIRECTOR GENERAL OF POLICE,
DGP OFFICE, MYLAPORE,
DR. RADHAKRISHNAN SALAI, MYLAPORE,
CHENNAI-625 005.
3. THE DEAN, GOVERNMENT HOSPITAL,
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O/O. COMMISSIONER OF POLICE, DINDIGUL.
5. THE DEPUTY SUPERINTENDENT OF POLICE,
DINDIGUL RANGE, DINDIGUL.
6. THE INSPECTOR OF POLICE,
VIRUVEEDU POLICE STATION,
DINDIGUL.

COPY TO:

1. THE DEAN,
MADURAI MEDICAL COLLEGE, MADURAI.
2. DR. T. SELVARAJ, H.O.D.,
FORENSIC MEDICINE,
MADURAI RAJAJI GOVERNMENT HOSPITAL, MADURAI.
3. DR. SADHASIVAM, ASSISTANT PROFESSOR,
DEPARTMENT OF FORENSIC MEDICINE,
MADURAI MEDICAL COLLEGE, MADURAI.
4. DR. RAMA, ASSISTANT PROFESSOR,
DEPARTMENT OF FORENSIC MEDICINE,
MADURAI MEDICAL COLLEGE, MADURAI.

ORDER
IN
WMP(MD) No.10231 of 2020
IN
WP(MD) No.11823 of 2020
Date :18/09/2020

SMN2
TK/JC/SAR.2/18.09.2020/6P/11C