



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD) .No.24661 of 2019

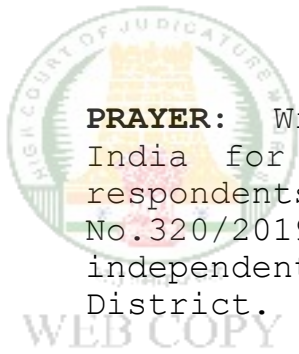
I.Stephen Raj

.. Petitioner

Vs.

- 1.The District Collector,
District Collectorate,
Theni, Theni District.
- 2.The Superintendent of Police,
District Superintendent Police Officer,
Theni, Theni District.
- 3.The District Revenue Officer,
District Revenue Office,
Theni, Theni District.
- 4.Revenue Divisional Officer,
Revenue Divisional Office,
Uthamapalayam, Theni District.
- 5.The Inspector of Police,
Uthamapalayam Police Station,
Uthamapalayam, Theni District.
- 6.Jayapandian,
Sub-Inspector of Police,
Uthamapalayam Police Station,
Uthamapalayam, Theni District.
- 7.Jeyakumar
B.No.338,
Constable of Police,
Uthamapalayam Police Station,
Uthamapalayam, Theni District.
- 8.Ramesh Kanna
B.No.520,
Constable of Police,
Uthamapalayam Police Station,
Uthamapalayam, Theni District.

.. Respondents



PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus directing the 1st to 3rd respondents herein to transfer the investigation of the FIR in Crime No.320/2019 on the file of the 5th respondent police to some other independent or specialized agency like CBI or CBCID of Theni District.

For Petitioner : Mr.K.Prabhu

For Respondents : A.Robinson,
1 to 5 Government Advocate (Cr1. Side)

ORDER

The petitioner seeks transfer of investigation in Crime No.320 of 2019 on the file of Uthamapalayam Police Station to some other Agency. The petitioner is the son of the deceased. The petitioner's father was the past President of the Local Village Panchayat. On 22.05.2019, the petitioner's father went missing. Therefore, the petitioner's brother gave a missing complaint before the 5th respondent. The petitioner specifically states that they found the two wheeler of his father bearing registration No.TN 60 Z 9668 parked in-front of the police station. The petitioner later came to know that two police personnel attached to the 5th respondent police station had intercepted the petitioner's father on 22.05.2019 when he was riding his moped under the influence of alcohol. The petitioner's father was allegedly in possession of four liquor bottles. According to the status report filed by the Inspector of Police, Uthamapalayam Police Station, the petitioner's father was warned. It is relevant to mention here that during the relevant time, counting process was going on and the Government had ordered closure of liquor shops through out the state.

2.The petitioner's father's body was located in the well of one Ramachandran on 24.05.2019. Thereafter Crime No.320 of 2019 was registered on 24.05.2019 under Section 174 of Cr.P.C.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and wanted this Court to transfer further investigation. The petitioner's specific allegation is that there is some foul play. The petitioner wants this Court to take note of the fact that the two wheeler belonging to his father was found in the Station premises. The petitioner's suspicion is reinforced by the indifferent response of the local police when the petitioner and his brother approached them on 23.05.2019.

5.The Inspector of Police in his status report clearly states as follows:

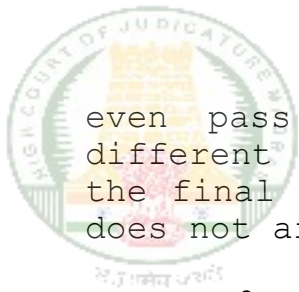


"(5) I submit that the deceased used to pass through the farm of Ramachandran several times in drunken mood. During the 2019 Parliamentary Election, the deceased full fledged manner worked for the election duty of his political party. Due to his liquor habit, the deceased used to stock 3 or 4 quarter liquor bottles in his motor cycle bearing registration No. TN 60 Z 9668. The investigation reveals that the counting of votes for the parliamentary election was scheduled on 23.05.2019 and the Government has ordered closure of TASMAL shops throughout the state. Therefore, in order to prevent illegal liquor sale and stocking, Sub Inspector of Police Jayapandi with police party on 22.05.2019 patrolled on the road of Anumanthampatti near to the TASMAL shop. At that time the deceased was seen coming in his motor cycle from west to east at Anumanthampatti and he was intercepted by the police. The deceased was under influence of alcohol and he found possession of 4 quarter bottles. The deceased Irudayaraj informed the police party that due to the closure of liquor shop he has purchased the liquor bottles for his own use. At that time the Sub Inspector of Police received information that some persons are purchasing huge stocks of liquor bottles in the TASMAL shop. Therefore, the police party left the deceased with warning and went to the nearby TASMAL shop for monitoring.

(6) I submit that after the inspection of the TASMAL shop the Sub Inspector of Police along with friends of police returned to the police station. At that time they noticed that the vehicle of the deceased was lying on the road. Therefore, the vehicle was taken to the 5th respondent police station. The investigation reveals that the deceased on drunken mood left the vehicle on the road and he passed through the farm of Ramachandran and slipped into the Well and died by drowning."

6.As pointed out by the learned Government counsel, Post-mortem report states that the death was due to Drowning asphyxia and no injuries either external or internal were found on the body. Likewise, the Viscera content sent for analysis did not reveal the presence of any poison.

7.Taking note of these aspects, without drawing any conclusion at this stage, the 5th respondent is directed to file a final report within a period of four weeks from the date of receipt of a copy of this order. The petitioner shall be put on notice by the jurisdictional Magistrate. The petitioner will be furnished with the copy of the final report. The petitioner will be given an opportunity to put forth his contentions. It is open to the jurisdictional Magistrate to reject the final report, if he sustains the objections of petitioner herein. Thereafter, the Magistrate can



even pass an order for entrusting further investigation to a different agency by considering the petitioner's contentions. If the final report is accepted, the question of further investigation does not arise.

8.This writ petition stands disposed of with these directions.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar

To

- 1.The District Collector,
District Collectorate, Theni,
Theni District.
- 2.The Superintendent of Police,
District Superintendent Police Officer,
Theni, Theni District.
- 3.The District Revenue Officer,
District Revenue Office, Theni, Theni District.
- 4.Revenue Divisional Officer, Revenue Divisional Office,
Uthamapalayam, Theni District.
- 5.The Inspector of Police, Uthamapalayam Police Station,
Uthamapalayam, Theni District.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.K.PRABHU, Advocate (SR-11451[F] dated 12/03/2020)

W.P(MD) .No.24661 of 2019

11.03.2020

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