



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.20444 of 2021 and
W.M.P.No.24585 of 2021

Senthilvel

... Petitioner

Versus

1. The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Home Department,
St.George Fort,
Secretariat,
Chennai-600 009.
2. The Director General of Police,
Head of Police Force,
Mylapore,
Chennai - 600 004.
3. The District Collector,
Cuddalore District,
Cuddalore.
4. The Superintendent of Police,
Cuddalore District,
Cuddalore.
5. State Rep by,
Inspector of Police,
Kadampuliyur Police Station,
(Crime No.562 of 2021).
6. The Joint Director,
Central Bureau Investigation,
Thousand Lights,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, directing the 5th respondent Police to conduct post mortem on his father's dead body at JIPMER hospital, Puducherry with video graph recording of the entire process of the post mortem and consequently, direct the respondents 4 and 5 to transfer the investigation in Crime No.562 of 2021 on the file of the Inspector of Police, Kadampuliyur Police Station, Cuddalore District to the Central



Bureau of Investigation (CBI) herein to any other competent investigating agency for fair and proper investigation.

For Petitioner : Mr.K.Balu for
Mr.R.Elavarasan

For Respondents : Mr.Hasan Mohammed Jinnah,
State Public Prosecutor assisted by
Mr.A.Damodaran,
Additional Public Prosecutor

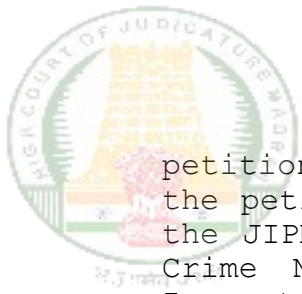
ORDER

This Writ Petition has been filed to direct the 5th respondent Police to conduct postmortem on his father's dead body at JIPMER Hospital, Puducherry with video recording of the entire process of the postmortem and consequently, direct the respondents 4 and 5 to transfer the investigation in Crime No.562 of 2021 on the file of the 5th respondent to the file of the 6th respondent or to any other competent investigating agency for fair and proper investigation.

2.The learned counsel for the petitioner submitted that Mr.T.V.R.Ramesh/A1 is a Member of Parliament and an influential person. He voluntarily surrendered before the learned Judicial Magistrate No.II, Panruti and the Police custody was sought for three days, but the lower Court granted only one day on 13.10.2021. The Investigating Officer for the reasons best known had taken A1 into custody for three hours only on 13.10.2021 and he was not taken to the scene of occurrence to confirm the aspects of the case. The learned counsel further submitted that the petitioner had apprehension that the investigation would be biased, since the present investigating officer is not conducting investigation properly for the reason that her husband who is also an Inspector of Police attached to another wing of Police and his duty is to collect details about the VIP movements and other high dignitaries and he has acquittance with the petitioner which would influence the Investigating Officer.

3.He further submitted that from the date of surrender, A1 was given preferential treatment and he was detained in Sub Jail Cuddalore and all facilities was provided to him. The other accused are detained in the Central Prison, Cuddalore. A2, the Personal Assistant of the petitioner/A1 was brought back from the Central Prison, Cuddalore and detained in Sub Jail, Cuddalore along with A1 in order to help and assist A1. Thus, the petitioner apprehends that the continuation of the investigation by the present Investigating Officer would be tainted investigation, facilitating prime accused in this case.

4.The learned State Public Prosecutor appearing on behalf of the respondents submitted that the grievance of the



petitioner have been addressed and the postmortem on the body of the petitioner's father was conducted by the Doctors attached to the JIPMER Hospital, Puducherry. In the meantime, the case in Crime No.562 of 2021 was transferred from the file of the Inspector of Police, Kadambuliur Police Station, Cuddalore to the file of the Inspector of Police, CBCID, Cuddalore as per the order of the Director General of Police, HoPF, Tamil Nadu, Chennai in C.No.Crime II(1)/535/013851/2021, dated 26.09.2021 to conduct investigation in this case and it is renumbered as Crime No.2 of 2021. After getting postmortem report from the JIPMER Hospital, Puducherry, Sections got altered to 147, 302, 201 r/w 149, 341 and 120(b) IPC. Immediately, on 08.10.2021, A2 to A5 were arrested in this case and A1 voluntarily surrendered before the learned Judicial Magistrate No.II, Panruti and all the accused remanded to judicial custody. Since A1 is a Member of Parliament, the arrest of A1 has been intimated to the Speaker of Lok Sabha and approval was sought. Immediately, a petition for Police custody was filed by the Inspector of Police, CBCID, Cuddalore on 13.10.2021, seeking three days police custody. The lower Court granted only one day police custody on 13.10.2021. On that day, the media persons and others gathered and the atmosphere led to commotion, due to which, A1 got hurt and he was taken to the Government Hospital, Cuddalore for treatment. During custody, statement of A1 was recorded and later, he was remanded back to judicial custody.

5.The confinement of A1 in Sub Jail, Cuddalore is not for any special treatment. Considering the security and safety of A1, the prison authorities has not detained him in Central Prison, Cuddalore. Since A2 had some illness, he was shifted from the Central Prison, Cuddalore to the Sub Jail, Cuddalore and he was treated in the hospital and A2 was advised to be kept in isolation and for continuous medication. Segregating and detaining the prisoners from the Central Prison to Sub Jail is a normal practise, which is followed by the Jail authorities prevailing upon the ground situation. It is not only A1 in this case who is confined in Sub Jail, Cuddalore, there are other prisoners for safety and security reasons are confined in Sub Jail, Cuddalore.

6.The learned State Public Prosecutor further submitted that in this case, the substantial portion of the investigation is completed. The Inspector of Police, CBCID, Cuddalore visited the scene of occurrence, recorded statements of the witnesses present in the scene, seized CCTV recordings and CDR particulars of the accused and collected the tower location of the accused and electronic evidence and are sent for Forensic Study. Now, the forensic reports are to be collected. In this case, so far 47 witnesses were examined and the investigation is going on in an unbiased manner. Thus the apprehension of the petitioner that since A1 in this case is a Member of Parliament, some special privileges are given and the investigation would not be properly conducted, are unfounded. Now, the investigation is



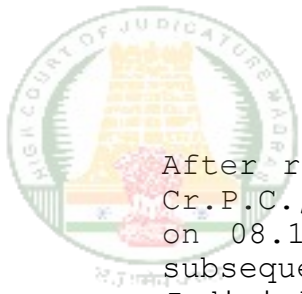
carried on by the Inspector of Police, CBCID, Villupuram and monitored by the Additional Deputy Superintendent of Police, CBCID, Villupuram.

7. This Court considered the rivals submissions and perused the postmortem report of the JIPMER Hospital, Puducherry; the proceedings of the Director General of Police, Crime Branch CID, Chennai in C.No.Crime II (I)/535/013851/2021 and the particulars with regard to A1 detained in Sub Jail, Cuddalore for security reasons and alteration report and other documents.

8. The prayer sought by the petitioner that the postmortem on his father's dead body to be conducted by the Doctors attached to the JIPMER Hospital, Puducherry has earlier been considered by this Court, by order, dated 22.09.2021 and the relevant portion is extracted as follows:-

"12. In view of the same, this Court directs the petitioner and his family to participate in the inquest without any delay. This Court directs the Director, JIPMER Hospital, Puducherry to nominate a panel of experts of three numbers to conduct the post mortem on the body of the deceased Govindharasu in Mundiampakkam Government Hospital, Villupuram and thereafter, on completion of the post mortem hand over the body to the petitioner and his relatives for conducting the last rites as per their customary practice. Following the guidelines issued by this Court in the case of K.Villayi Vs. The State of Tamil Nadu represented by the Principal Secretary Department of Home, State Secretariat, Fort St. George, Chennai in W.P.(MD).No.15906 of 2021 dated 14.09.2021, the team of Doctors of JIPMER is directed to conduct post mortem, record the same through videograph. Post mortem is to be conducted on 23.09.2021 at 10.30 a.m. and X-Rays to be taken all over the body, since there is a specific allegation that the deceased was beaten black and blue and he might have sustained bodily injuries and fractures. It is made clear that the issue should not be politicized, media trial and unnecessary publicity to be avoided. The petitioner is permitted to authorise a representative of his choice to be present during the post mortem and nothing more. Further the Deputy Superintendent of Police, Panruti SubDivision, Cuddalore District is hereby directed to personally supervise the investigation and the Superintendent of Police, Cuddalore is directed to monitor the investigation and report the progress of the case."

9. The postmortem report of the JIPMER, Hospital, Puducherry dated 23.09.2021 is produced before this Court.



After receiving the postmortem report, Section altered from 174 Cr.P.C., to Sections 147, 302, 201 r/w 149, 341 and 120(b) IPC on 08.10.2021. On the same day, A2 to A5 were arrested and subsequently, A1 voluntarily surrendered before the learned Judicial Magistrate No.II, Panruti on 11.10.2021. The accused were taken into Police custody and their statements have been recorded.

10.The other prayer sought by the petitioner is that the FIR in Crime No.562 of 2021 on the file of the Inspector of Police, Kadampuliyur Police Station, Cuddalore District to be transferred to any other competent investigating agency for fair and proper investigation which was already complied by the Director General of Police, HoPF, Tamil Nadu, Chennai vide proceedings in C.No.Crime II(1)/535/013851/2021, dated 26.09.2021, who directed the investigation in Crime No.562 of 2021 to be conducted by the Inspector of Police, CBCID, Cuddalore.

11.The apprehension of the petitioner that the Inspector of Police, CBCID, Cuddalore is not conducting investigation properly for the reason that her husband who is also an Inspector of Police attached to another wing of Police and his duty is to collect details about the VIP movements and other high dignitaries, having acquaintance with the petitioner would influence the Investigating Officer, is also now considered by the Director General of Police, Crime Branch CID, Chennai, vide proceeding in C.No.Crime II (I)/535/013851/2021, dated 18.10.2021, nominating Mr.S.Sundraraj, Inspector of Police, CBCID, Villupuram as Investigating officer in this case, which is acknowledged by the petitioner.

12.Thus the apprehensions and the grievance of the petitioner are addressed. Now, the investigation is now being monitored by the Additional Deputy Superintendent of Police, CBCID, Villupuram. The Crime Branch Criminal Investigation Department (CBCID) is a specialized agency, well equipped and well experienced in investigating such high profile sensitive cases. The investigation is being verified and monitored by the higher officials periodically.

13.In view of the above, this Writ Petition is closed. Consequently, the connected Miscellaneous Petition is also closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar



To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Home Department,
St. George Fort,
Secretariat,
Chennai-600 009.
2. The Director General of Police,
Head of Police Force,
Mylapore,
Chennai - 600 004.
3. The District Collector,
Cuddalore District,
Cuddalore.
4. The Superintendent of Police,
Cuddalore District,
Cuddalore.
5. The Inspector of Police,
Kadampuliyur Police Station,
(Crime No.562 of 2021).
6. The Joint Director,
Central Bureau Investigation,
Thousand Lights,
Chennai.
7. The Public Prosecutor,
High Court, Madras.

Copy to:

1. The Additional Deputy-Superintendent of Police,
CBCID,
Villupuram.
2. The Inspector of Police,
CBCID,
Villupuram.
3. The Director General of Police,
Crime Branch, CID,
Chennai.

+1cc to Mr.R.Elavarasan, Advocate SR. No.61348

W.P.No.20444 of 2021

EV (CO)

PR (06/12/2021)

<https://hcservices.ecourts.gov.in/hcservices/>