



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN  
AND  
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.A(MD)No.426 of 2020

and

C.M.P(MD)No.2934 of 2020

The Inspector of Police [L & O]  
K.Pudur Police Station,  
K.Pudur, Madurai.

... Appellants / 10<sup>th</sup> Respondent/10<sup>th</sup> Respondent

Vs.

- 1.S.Manimuthu
- 2.The Secretary to Government,  
Health and Family Welfare Department,  
Secretariat, St.George Fort,  
Chennai - 9.
- 3.The Dean,  
Government Rajaji Hospital and Madurai Medical College,  
Madurai.
- 4.The District Collector,  
Office of the District Collectorate Campus,  
Madurai.
- 5.The Corporation Commissioner,  
Office of the Madurai Corporation,  
Madurai.
- 6.The Deputy Director of Health Services,  
Viswanathapuram,  
Madurai -14.
- 7.The Officer in charge,  
Urban Primary Health Centre,  
K.Pudur, Madurai.



8.Dr.Shalini,  
Urban Primary Health Centre,  
K.Pudur, Madurai,  
presently working at  
Urban, Primary Health Centre,  
Karisalkulam, Madurai.

9.Prema [Nurse]  
Urban Primary Health Centre,  
K.Pudur, Madurai,  
presently working at  
Urban Primary Health Centre,  
Vandiyur, Madurai.

10.The Commissioner of Police,  
Madurai City, Madurai.

... Respondents / Respondents/Writ  
Petitioner

PRAYER: The Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 26.02.2020 passed by this Court in W.M.P(MD)No.23392 of 2019 in W.P(MD)No.27049 of 2019.

Prayer in WMP(MD). 23392 of 2019 :

To pass an interim direction, directing the 2nd and 5th respondents to furnish Postmortem report and death certificate of the petitioner wife respectively pending disposal of the above WP and thus render justice.

Prayer in WP(MD). 27049 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Direct the respondents 1 to 5 to provide / pay a compensation of sum of Rs.10 Lakhs towards the death of the petitioner wife namely Sakthikali due to the medical negligence of the respondents 6 to 8 and take appropriate action against them within the time frame that may be fix by this Honourable Court by considering the petitioner representation dated 24.9.2019.

For Appellants : Mr.Mohammed Imran  
for Mr.B.Anandan

For Respondent : Mr.Muthugeethaiyan  
Nos.2,3,4,6,7 & 10 Special Government Pleader

For Respondent No.5 : Mr.R.Murali



**JUDGMENT**

[Judgment of the Court was delivered by **B. PUGALENDHI, J**]

The writ appeal is filed as against the order of the learned Single Judge passed in W.M.P(MD)No.23392 of 2019 in W.P(MD) No.27049 of 2019, dated 26.02.2020.

2.The writ petition has been filed for issuance of a writ of mandamus, to direct the respondents 1 to 5, to provide / pay a compensation of a sum of Rs.10 Lakhs towards the death of the petitioner's wife namely, Sakthikalai due to the medical negligence of the respondents 6 to 8 and take appropriate action against them within the time frame fixed by this Court, considering the petitioner's representation dated 29.09.2019.

3.The writ petitioner's wife, namely, Sakthikali, was admitted for delivery in the Urban Primary Health Centre, K.Pudur, Madurai, on 14.09.2019 at 2.00 P.M and she died under suspicious circumstances, for which, a criminal case has been registered in Crime No.496 of 2019, on the file of the K.Pudur Police Station, on 15.09.2019. The petitioner claims that his wife died in the Urban Primary Health Centre, K.Pudur, Madurai and she was not attended properly by the Nurse, who was there in the hospital and subsequently, only 108 Ambulance was called and appellant's wife was taken to the Government Rajaji Hospital, Madurai.

4.On 15.09.2019 inquest was conducted by the Sub Inspector of Police, K.Pudur Police Station, Madurai and he prepared the inquest, as if the deceased died in the 108 Ambulance on the way from the Urban Primary Health Centre, K.Pudur, Madurai, to Government Rajaji Hospital, Madurai.

5.This Court on the available *prima facie* material that this appellant attempted to safeguard the Doctor, who was working in the Urban Primary Health Centre in K.Pudur at Madurai, has created records, as if, the writ petitioner's wife died during transit and therefore, directed the Commissioner of Police, Madurai City, Madurai, to initiate appropriate departmental action against this appellant, being the Inspector of Police, El, Pudur (Law and Order) Police Station, Madurai City. Aggrieved over the same, the present writ appeal is filed.

6.Heard the learned Counsel appearing for the appellant.

7.Mr.Imran, learned Counsel for the appellant submitted that the place of death of the writ petitioner's wife is not known to the appellant and the accident register maintained by the Rajaji Government Hospital, Madurai reveals that she was brought dead.



The inquest in this case was conducted by one Sundarapandian, Sub Inspector of Police. After completion of the inquest and after examining witnesses, the said Sundarapandian, handed over the files to the appellant on 16.09.2019.

8. The learned Counsel further submitted that the appellant is not aware as to the exact place of death and that could be found out only after completion of the investigation and after getting report from the experts. There is absolutely no intention or any willful act in the matter of the death of the writ petitioner's wife and the appellant has taken all the steps earnestly pursuant to the registration of the FIR. Moreover, there is no serious allegation against this appellant. Further, there is no relief sought for as against the appellant either in the interim application or in the main relief. Therefore, prayed for allowing this writ appeal.

9. This Court paid its anxious consideration to the rival submission and perused the materials placed on record.

10. Though a stand has been taken in the inquest that the deceased died in 108 Ambulance on the way to the Government Rajaji Hospital, Madurai from the Urban Primary Health Centre at K.Pudur, Madurai, the statement and affidavit of the petitioner reveals that the wife of the petitioner has developed some complications during the delivery time in the Urban Primary Health Centre at K.Pudur, Madurai, but, she was attended by the duty Nurse, which resulted in, death of the deceased.

11. This Court has also perused the Case Diary pertaining to Crime No.496 of 2019, on the file of the K.Pudur Police Station, Madurai. We have also perused the statement of the Nurse given to the Investigation Officer, wherein, she claims that the patient did not co-operate for normal delivery and she has also insisted to take the patient to some other hospital, but the deceased family were adamant in taking her to the Government Hospital. She only made arrangements to take the patient to the Government Rajaji Hospital through 108 Ambulance. This report is quiet contrary to the statement of the petitioner. The fact remains that the petitioner's wife died at the tender age of 22, either in the hospital or on the way to the Government hospital in the process of delivery.

12. Based on the complaint of the writ petitioner, the Sub Inspector of Police, K.Pudur Police Station, Madurai has registered a case in Crime No.469 of 2019 under Section 174 CrPC. A reading of Sub Section 4 of Section 174 CrPC, shows that the inquest in this case of nature, has to be conducted by any of the District Magistrate or Sub-Divisional Magistrate and any other



Executive Magistrate specially empowered in this behalf by the State Government or District Magistrate.

13. But in this case, the Sub Inspector of Police of the appellant Police Station, who registered the FIR has also conducted the inquest in this case. In the complaint itself, the writ petitioner has pointed that the wife was mishandled by the staff Nurse at the Urban Primary Health Centre in K.Pudur at Madurai and though she was struggling with pain and bleeding, she was not attended by the Doctor of the Centre. The Investigation Officer has not collected the call details to ascertain, as to whether the Doctor of the Urban Primary Health Centre, was informed about the condition of the patient. However, the records are created, as if the patient died during transit, whereas, the Attender of the 108 Ambulance has stated that while the deceased was taken into the Ambulance, she was breathless and there was no pulse and there is no proper investigation conducted in this regard.

14. The appellant, being the Station House Officer has not paid due attention in this case and allowed the investigation to be proceeded by the Sub Inspector of Police. He should have visited the place of occurrence and monitored the investigation. The manner in which, the records are created in this case needs to be enquired by the Department and therefore, this Court is not inclined to interfere with the orders of the learned Single Judge and accordingly, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1. The Secretary to Government,  
Health and Family Welfare Department,  
Secretariat, St. George Fort,  
Chennai - 9.



2.The Dean,  
Government Rajaji Hospital and Madurai Medical College,  
Madurai.

3.The District Collector,  
Office of the District Collectorate Campus,  
Madurai.

4.The Corporation Commissioner,  
Office of the Madurai Corporation,  
Madurai.

5.The Deputy Director of Health Services,  
Viswanathapuram, Madurai -14.

6.The Officer in charge,  
Urban Primary Health Centre,  
K.Pudur, Madurai.

7.The Commissioner of Police,  
Madurai City,

+1 CC to M/s.R.MURALI, Advocate ( SR-6270[F] dated 19/02/2021 )

+1 CC to M/s.SPL GP ( SR-6476[F] dated 22/02/2021 )

**W.A(MD)No.426 of 2020**  
**19.02.2021**

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