



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P. (MD)No.4969 of 2021

WEB COPY

P.K.Ram Kumar : Petitioner/De-facto Complainant

Vs.

1.The State represented through
The Deputy Superintendent of Police,
Thoothukudi South Sub Division,
Thoothukudi South P.S.
Crime No.533 of 2019.

2.The Inspector of Police,
(Law & Order)
South Police Station,
Thoothukudi District,
Thoothukudi.

: Respondents/Complainants

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., seeking for direction to the respondents to provide adequate police protection for the petitioner, his family and the witnesses till the disposal of the case in SC No.62 of 2020 pending on the file of the Special court for the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, Thoothukudi.

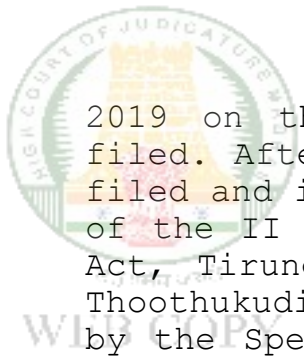
For Petitioner : Mr.A.S.Vaigunth
For Respondents : Mr.K.Sanjai Gandhi
Government Advocate (Crl. side)

O R D E R

This petition is filed seeking police protection to the petitioner and his family members as well as to the witnesses till the disposal of SC No.62 of 2020 pending on the file of the Special Court for exclusively trial of SC/ST Act cases.

2.The case in brief is as follows:-

The petitioner is a practising Advocate in Tirunelveli and around area for about 20 years. He got two brothers by name P.K.Muthu Kumar and P.K.Siva Kumar. On 21.08.2019 he along with his brother P.K.Sivakumar proceedings to the Sessions Court through South Police Station in District Court Campus, Thoothukudi, his elder brother P.K.Siva Kumar and his son-in-law were waylaid by one Rajesh and others and brutally attacked, as a result of which, P.K.Siva Kumar died. In this connection, a case in Crime No.533 of

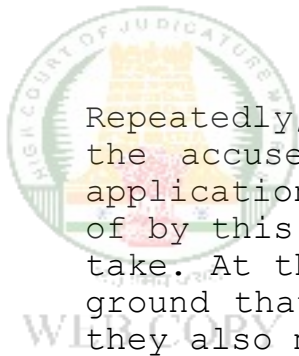


2019 on the file of the South Police Station, Thoothukudi, was filed. After completing the investigation process, final report was filed and it was also taken on file in SC No.187 of 2019 on the file of the II Additional Sessions Judge (Special Court for SC/ST (POA) Act, Tirunelveli. Later, after formation of the Special Court at Thoothukudi, it was transferred to Thoothukudi and now, it is tried by the Special Court for SC/ST (POA) Act cases, Thoothukudi. The accused persons are involved in the above said murder case of P.K.Siva Kumar are the habitual offenders and all the accused persons are having previous bad antecedents from other criminal cases, at their credit, as detailed in the petition. So among them, 21th accused Murugesan, who is the co-accused and the brother of the prime accused is still absconding. So the case has been split up against that person and now rest of the accused persons are facing the trial. As per law, the trial must be completed within a period of two months and must be taken up for to day basis, but that was not followed. Crl.OP(MD)No.1987 of 2019 was filed before this court seeking a speedy disposal and that was allowed and three months time was granted to complete the trial process. Again that was not complied, the 14th accused filed a transfer petition in Crl.OP(MD) No.989 of 2020 making some allegations against the Presiding Officer and that was dismissed, on 16.03.2020. Again another Crl.OP(MD) No.418 of 2020 has been filed to conduct the trial process on today basis. While the process is going on in such a manner, Accused No.19 Ramesh, threatened the 2nd witness not to depose against him before the trial court. On the basis of the complaint given by him, the case in Crime No.730 of 2019 was registered on the file of the South Police Station, Thoothukudi. He was also arrested and remanded to judicial custody. Now the final report has also been filed. Similarly, the petitioner was also threatened by A2/Peter alias Anthony Peter, for which also, a case in Crime No.120 of 20120 was registered on the file of the Palayamkottai Police Station, Tirunelveli. So the accused persons are delaying the trial process by filing frivolous petitions before this court. So there is every possibility for being threatening the witnesses. Since the accused persons are continuously threatened the petitioner, this petition is filed seeking police protection.

3.Heard both sides.

4.This matter was heard along with Crl.A(MD)Nos.226, 243 and 270 of 2021, as specially ordered case. However, bail applications filed in Crl.A(MD)Nos.226, 243 and 270 of 2021 have been dismissed by a common order, dated 09.11.2021. This case is the specially ordered matter, even though the roster has been changed, this Bench is to dispose this petition. So this order is passed.

5.As stated in the pleadings portion, it is long drawn process and the trial was going on before the Special Court for SC/ST Act cases and in-spite of repeated directions, still the matter could not be completed by the trial court for one or other reasons.



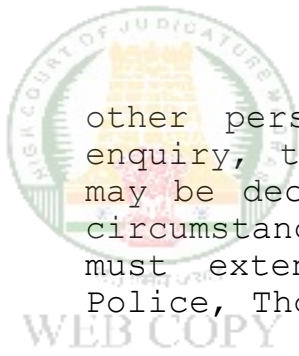
Repeatedly, as mentioned in the petition, petition has been filed by the accused persons stating one or other reasons. Now all the applications that have been filed by the accused have been disposed of by this court as stated above. Now the trial process is about to take. At this juncture, this petition came to be filed solely on the ground that the accused are known their bad antecedents and indeed, they also made threat to the witnesses as well as to this petitioner also, who happened to be the eye witness.

6.Now the history of accused shows that the deceased in this case namely P.K.Sivakumar and two persons were involved in the murder case of one Athipalam on the file of the Sipcot Police Station. As retaliation, to wreck vengeance upon the accused persons, the brother of the petitioner was also done to death on his way to the trial court just within the premises of the Court and this petitioner being the eye witness, who also accompanied the deceased.

7.It has also been brought to notice of this court that the another person in the murder of Athipalam, namely Murugan has also been murdered by the other accused persons. This is the second murder that took place as a retaliation murder of Athipalam. Similarly, even during the pendency of the trial proceedings, as mentioned in the pleadings, against A19, two cases have been registered in Crime Nos.730 of 2019 and 176 of 2020 for having threatened the witnesses. So there is every possibility to strike back. As mentioned above, they are also involved in continuous stop of trial process. So I am of the considered view that antecedents of the accused persons, who some of them were released on bail and in the light of registration of the above two criminal cases for having threatened the witness, this is the fittest case, which requires proper police protection to the petitioner and their family members as well as to the witnesses in SC No.62 of 2020 till the trial process is completed.

8.Even though, the witness protection has not been implemented, as per section 15(a) of the SC/ST Act, it is the duty of the trial court to provide protection. So by exercising the power that has been conferred under section 15(A) of the Act, the petitioner is entitled for being protected by the police.

9.In the light of the above, this Criminal Original Petition is **allowed** and a direction is issued to the Superintendent of Police, Thoothukudi District to provide police protection to the petitioner and his family members as well as to the witnesses in SC No.62 of 2020 till the completion of the trial process. The manner in which police protection is to be extended may be decided by the Superintendent of Police, Thoothukudi, in accordance with the procedure and law. So order must be passed by the Superintendent of Police, Thoothukudi District, within a period of 15 days from the date of receipt of the order copy, by summoning the petitioner and



other persons for enquiry. Depending upon the outcome of the enquiry, the manner in which the police protection to be provided may be decided by the police by taking into account the facts and circumstances and necessity etc. The petitioner and other persons must extend their full cooperation with the Superintendent of Police, Thoothukudi, to complete enquiry.

10. With the above directions, this petition stands **allowed**. If any trouble arises in future, the petitioner is at liberty to approach this court for appropriate relief.

Sd/-

Assistant Registrar(Writs)

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Sub Assistant Registrar(CS)

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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.

To,

1. The Superintendent of Police,
Thoothukudi District.
2. The Deputy Superintendent of Police,
Thoothukudi South Sub Division,
Thoothukudi South P.S.
3. The Inspector of Police, (Law & Order)
South Police Station,
Thoothukudi District, Thoothukudi.
4. The Special Court for SC/ST (POA) Act cases,
Thoothukudi.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P. (MD)No.4969 of 2021
16.11.2021

TSK(CO)
TR(14.12.2021) 4P 6C