



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.10.2021

CORAM

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

C.R.P(PD) (MD) No. 1679 of 2021

and

C.M.P(MD) No.9058 of 2021

WEB COPY

Dr.A. Rathinavel
Dean
Madurai Medical College and
Government Rajaji Hospital
Madurai

...Petitioner/Witness

Vs.

1. Rajalakshmi
2. Minor. Krishna Penni
3. Minor. Malar Vannan
4. Valliyammal
5. Kannasamy
(Minor petitioners through their mother
and next Guardian 1st petitioner herein)
6. The Tamil Nadu State Transport Corporation
Limited
Through its Managing Director
Dindigul

...Respondents/Claimants/
1 to 5 Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the issuance of the witness warrant order passed by the learned Special Sub Court (dealing with MCOP) cases, Tirunelveli made in MCOP No. 776 of 2018 dated 27.08.2021 and recall witness warrant.

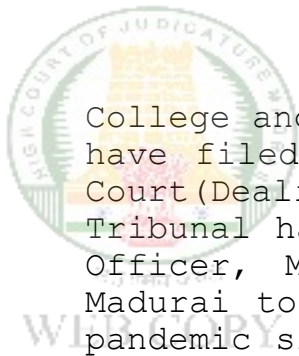
For Petitioner : Mr.Veerakathiravan
Additional Advocate General
assisted by A. Baskaran
Government Advocate

O R D E R

This Civil Revision Petition has been filed to set aside the issuance of the witness warrant order passed by the Special Sub Court (dealing with MCOP cases), Tirunelveli made in MCOP No. 776 of 2018 dated 27.08.2021 and recall the witness warrant.

2. This Court is of the view that no notice needs to be served on the respondent since it would delay the progress of the trial before the Trial Court.

3. Mr. Veera Kathiravan, learned Additional Advocate General would submit that the petitioner is the Dean, Madurai Medical



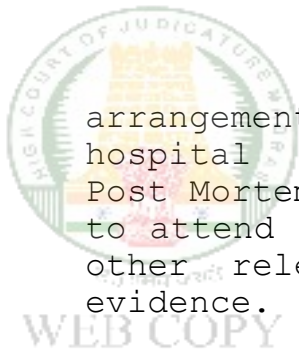
College and Government Rajaji Hospital, Madurai. Respondents 1 to 5 have filed MCOP No. 776 of 2018 on the file of the Special Sub Court(Dealing with MCOP Cases) Tirunelveli. During trial, the Tribunal had issued procedural witness summons to the Medical Record Officer, Madurai Medical College and Government Rajaji Hospital, Madurai to appear and give evidence on 16.03.2020. However due to pandemic situation the Medical Record Officer had failed to appear before the Tribunal. Thereafter, the case was listed before the Tribunal on 22.02.2021 and on that day since the witness had not appeared, the Tribunal, without issuing summons to the witness who had failed to appear had straight away issued witness warrant of arrest to the Dean of the institution.

4. He would further submit that though the petitioner being the head of the Institution is responsible to take steps, the matter was not brought to his knowledge due to the transfer of the Medical Record Officer. He would further submit that the petitioner understands that the case relates to the Motor Accidents Claim in respect of the death of Thangavelu, S/o. Kannasamy, who died in a road accident on 23.02.2018. In respect of the accident a case has been registered in Crime No.137 of 2018 by the Andipatti Police for the offence under Sections 279,337 @304(A) of IPC and the autopsy of the deceased was performed at the Madurai Medical College, Rajaji Hospital. He would further submit that the petitioner assures and undertakes to depute either the Medical Record Officer or the doctor Dr.Chandrasekar who conducted autopsy on the deceased to appear before the Tribunal along with the medical records /post mortem report to give evidence. He would also submit that the case stands posted before the Tribunal on 18.11.2021.

5.Heard the learned Additional Advocate General and perused the materials available on record.

6.The Tribunal had issued witness summon on 04.03.2020 to the Medical Record Officer, Madurai Medical College and Government Rajaji Hospital, Madurai for his presence on 16.03.2020. Since he had failed to appear before the Tribunal on 16.03.2020 and on the next hearing date viz., on 22.03.2021, the Tribunal had directly issued witness warrant of arrest to the Dean on 27.08.2021. It is represented by the learned Additional Advocate General that the Dean was not issued with summons in this case before issuance of witness warrant of arrest.

7.In view of the above the Civil Revision Petition stands allowed and Warrant of Arrest of witness dated 27.08.2021 issued by the Court of the Special Sub Ordinate Judge, Tirunelveli in MCOP No 776 of 2018 stands recalled. No costs. Consequently connected miscellaneous petition is closed. The undertaking given by the petitioner is recorded. It is made clear that even without any further notice from the Court , the petitioner / Dean, Madurai Medical College and Government Rajaji Hospital, Madurai shall make



arrangement to depute either the Medical Record Officer of the hospital or Dr. Chandrasekar who had conducted autopsy and issued Post Mortem Certificate for the deceased Thangavelu, S/o. Kannasamy to attend the Tribunal along with the Post Mortem Certificate and other relevant records without fail on 18.11.2021 and give evidence.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

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 Special Sub Judge(dealing with MCOP cases),
Tirunelveli
- 2.The Managing Director,
The Tamil Nadu State Transport Corporation Limited,
Dindigul.

Copy to:

The Deen,
Madurai Medical College and Government
Rajaji Hospital,
Madurai.

+1 CC to M/s.SPL.GP (SR-33329[F] dated 29/10/2021)

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MGJ/JC(01.11.2021) 3P 5C