



HCP No.1149 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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ORDER RESERVED ON : 13.12.2022

ORDER PRONOUNCED ON : 19.12.2022

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

and

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

H.C.P.No.1149 of 2020

Thulasidass Adikesavan

S/o.Adikesavan

.. Petitioner

Vs.

1.The Inspector of Police,
S-1, St.Thomas Mount Police Station,
Railway Station Road,
Alandur, Chennai – 600 016.

2.The Inspector of Police,
G-3, Kilpauk Police Station,
Chennai – 600 001.

3.The Inspector of Police,
Flower Bazaar Police Station,
Chennai.

4.The Commissioner,
Corporation of Chennai.

[R3 is *suo motu* impleaded as per
order dated 07.07.2020 and
R4 *suo motu* impleaded as per order
dated 15.07.2020]

.. Respondents



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Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus directing the second respondent to produce the body of the petitioner's father Athikesavan Srinivasan, aged about 74 years, before this Court and set him at liberty.

For Petitioner : Mr.A.Yogeshwaran
for Mrs.Poongkhulali
For Respondents : Mr.R.Muniyapparaj
Government Advocate [Crl.side]

ORDER

N.ANAND VENKATESH, J.

This petition has been filed seeking a direction to the second respondent to produce the body of the petitioner's father Athikesavan, aged about 74 years, before this Court and set him at liberty.

2. For the sake of convenience, the characters in this case will be referred to by their names.

3. One Athikesavan, aged around 72 years, a bangle seller, was living with his wife Ramathilagam in Door No.38/17, Muthiyaal Reddy Street, Alandur, Chennai – 600 016. He has three sons and one daughter viz.,



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Thulasidass, Nandagopal, Mannivannan and Mahalakshmi, who are living separately.

4. On 09.06.2020, Adikesavan was feeling a little unwell and therefore, he went to the nearby Primary Health Centre and undertook Covid-19 test. On 10.06.2020, he was informed that he was tested positive. In accordance with the protocol established by the Government, the Corporation authorities were alerted and one Ms.Divya Rani, Sanitary Inspector, went to the residence of Adikesavan on 11.06.2020 and made arrangements for taking him to Ekkattuthangal Urban Primary Health Centre (Division 170), for further screening. She made arrangements to take Adikesavan by an ambulance belonging to the Corporation of Chennai and the ambulance driver was one Raman.

5. Adikesavan was taken to the said Ekkattuthangal Urban Primary Health Centre along with another patient, by name, Akash Jain. At the screening centre, Adikesavan was subjected to various medical examinations and the doctors there felt that home quarantine would not be advisable for



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him and therefore, referred him to Government Kilpauk Medical College and Hospital for admission and treatment.

6. Accordingly, a 108 ambulance was arranged and Adikesavan was sent to Government Kilpauk Medical College and Hospital on 11.06.2020. Since Adikesavan did not have a mobile phone, his family members lost track of him. Since they did not know the whereabouts of Adikesavan, they went looking out for him at the screening centre and also at Government Kilpauk Medical College and Hospital, but in vain.

7. Mannivannan, younger son of Adikesavan, went to S-1, St.Thomas Mount Police Station on 17.06.2020 and gave a complaint saying that the whereabouts of his father were not known to the family after he was taken from his house for Covid-19 treatment. Based on the complaint, S-1, St.Thomas Mount police did not register a regular First Information Report of 'man-missing'.



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8. The disheartened family sent an online complaint on 21.06.2020 through the portal of the Tamil Nadu Police website, which was redirected to G3, Kilpauk Police Station, where a First Information Report in Crime No.458 of 2020 was registered for 'man-missing' on 23.06.2020.

9. Thereafter, the St.Thomas Mount police, belatedly, registered a CSR on 25.06.2020 and assigned CSR No.88/2020 for the petitioner's complaint dated 17.06.2020.

10. Since the police were not able to trace Adikesavan, Thulasidass, elder son of Adikesavan, has filed the present Habeas Corpus Petition on 02.07.2020.

11. On 07.07.2020, it was brought to the notice of this Court that Adikesavan was taken from Government Kilpauk Medical College and Hospital to Rajiv Gandhi Government General Hospital and a video clipping was submitted showing him walking out of the gate of Rajiv Gandhi Government General Hospital. Therefore, this Court *suo motu* impleaded the



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Inspector of Police, C1 Flower Bazaar Police Station, Chennai, as the third respondent.

12. On 15.07.2020, this Court impleaded the Commissioner, Corporation of Chennai, as the fourth respondent and called for a status report from them.

13. Mr.G.Prakash, the then Commissioner of Greater Chennai Corporation filed a status report dated 24.07.2020, wherein it is stated as follows:

- 4) It is submitted that Mr.Adhikesavan had attended the fever camp conducted at Alandur UPHC by the Respondent Corporation in Chennai city for treatment of his fever on 9/6/2020. A throat swab sample for COVID19 was taken on as he was symptomatic. During that time Mr.Adhikesavan has given a mobile number 9941391821 as his contact number. The test result Mr.Adhikesavan was found to be positive. As per standard protocol, the Division Sanitary Inspector Miss Dhivya had called the mobile number given by Mr.Adhikesavan at the time of testing, to inform the test result and the activities to be carried out. The Daughter-in-law of Mr.Adhikesavan, Mrs.Anitha had attended the call and requested to inform his test result to her and said that she will convey the message to him. The Sanitary Inspector requested to inform Mr.Adhikesavan that he was positive and as per protocol he will be shifted to screening center for triaging.



- 5) It is submitted that on 11/6/2020, the Ambulance engaged by the Greater Chennai Corporation had picked up Mr.Adhikesavan from his residence and took him to the NSTI COVID screening centre, Guindy. At the screening center, laboratory investigations such as Oxygen saturation, temperature, blood investigations and chest X-ray were done.
- 6) It is submitted that the Medical officer at the screening centre had examined the person and lab reports and referred Mr.Adhikesavan to Government Kilpauk Medical College Hospital. The patient was taken by 108 Ambulance along with other patients to Government Kilpauk Medical College Hospital. It is a routine procedure that the Sanitary Inspector would call the patients in the evening to ascertain the patient admission status and follow up. It is submitted that this patient could not be followed up as he did not carry a mobile phone.
- 7) It is submitted that after around 5 days, the Sanitary Inspector had received a phone call from Mr.Manivannan son of Mr.Adhikesavan asking whereabouts of his father. It is to note that the blood relatives were also not followed up Mr.Adhikesavan.
- 8) It is submitted that, the SI has informed to Mr.Manivannan S/o.Mr.Adhikesavan that his father Mr.Adhikesavan was referred to Government Kilpauk Medical College Hospital as per the records of screening centre.
- 9) It is submitted that around three days after this, Mr.Manivannan, son of Mr.Adhikesavan had called the Sanitary Inspector in the late evening to inform that he went to Government Kilpauk Medical College Hospital to meet his father and his father Mr.Adhikesavan was not admitted there.
- 10) It is submitted that, two Sanitary Inspectors went to Government Kilpauk Medical College Hospital the next day and enquired the hospital authorities regarding the patient Mr.Adhikesavan. His name was not found in the admission register at Government



Kilpauk Medical College Hospital Since his name was not in the admission register, both the SI's went to other hospitals to check the records there and when they checked the admission details his name was not found To rule out any unfortunate incident, the Sanitary Officer of GCC has enquired the mortuary at Government Hospitals and found that there was no unclaimed body.

- 11) It is submitted that, in order to trace the patient the 108 Ambulance records were verified by GCC as the patient was transported by 108 ambulance. On verification of 108 ambulance records, it was found that Mr.Adhikesavan was transported from COVID Screening Centre, NSTI Guindy to Government Kilapuk Medical College Hospital and from Government Kilpauk Medical College Hospital he was shifted to Rajiv Gandhi Government General Hospital as there was overcrowding of patients in admission desk on that day at Government Kilpauk Medical College Hospital.
- 12) It is submitted that as a part of continued efforts to trace the patient by the Greater Chennai Corporation, with the help of police officials, the CCTV footage was checked. The CCTV footage has clearly showed that Mr.Adhikesavan was waiting at Rajiv Gandhi Government General Hospital at 1:00 pm and was seen crossing the road in front of Rajiv Gandhi Government General Hospital at 8:30 pm.
- 13) It is submitted that the Respondent Corporation is given to understand that the Respondent Police officials are tracking the case with all available evidence with full and sincere efforts to trace Mr.Adhikesavan. It is with most humbleness submitted that with due respect to the affection of the family towards the missing person, the people responsibility and their cooperation is much required in this situation.
- 14) It is submitted that this Respondent Corporation officials will co-operate with the Respondent Police and the Petitioner in tracing the missing person Mr.Adhikesavan at any time and day as



required. Though the limits of the Corporation in dealing with the Covid patient is upto the pick up by 108 Ambulance, the Corporation Officials are sincerely taking efforts to trace the missing person. The respondent Corporation is confident that the person will be traced with the cooperation of Police and the family members.'

14. On 01.08.2020, the case in G3, Kilpauk PS Crime No.458 of 2020 was transferred to the file of the Inspector of Police, C1 Flower Bazaar Police Station. On 22.12.2020, the Inspector of Police, C1 Flower Bazaar Police Station, filed a status report, with which we were not satisfied and hence, we directed the presence of the Deputy Commissioner of Police, Kilpauk District, on 25.02.2021. Accordingly, on 25.02.2021, Mr.Saminathan, Deputy Commissioner of Police, Kilpauk District, appeared before us and we directed him to supervise the investigation that was conducted by the C1 Flower Bazaar police and directed him to file a status report.

15. Mr.Saminathan, the Deputy Commissioner of Police, filed two status reports dated 26.04.2021 and 15.06.2021 setting out the steps that were being taken for tracing Adikesavan.

16. Thus, from the status reports filed by the Commissioner of Greater



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Chennai Corporation and the Deputy Commissioner of Police, it is limpid that

Adikesavan underwent Covid-19 test on 09.06.2020 in the local Primary Health Centre and was tested positive on 10.06.2020; Divya Rani, Sanitary Inspector, sent him by an ambulance of the Chennai Corporation with one Raman as driver to the National Skill Training Institute Covid Screening Centre, Guindy, where the Ekkattuthangal Urban Primary Health Centre was functioning; Adikesavan underwent the screening test there and on the advice of the doctors there, he was sent by 108 ambulance, driven by one Rajan to Government Kilpauk and Medical College Hospital on 11.06.2020; from there, the same ambulance carried him to Rajiv Gandhi Government General Hospital, Chennai, for being admitted as an inpatient; thereafter, the whereabouts of Adikesavan are not known till date except the video clippings of Rajiv Gandhi Government General Hospital showing Adikesavan walking out of the hospital gate; when the family members of Adikesavan were shown the video clippings, they confirmed the person as Adikesavan.

17. The case came up for hearing on 17.08.2021 and based on the submissions made by the learned State Public Prosecutor, the following order



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was passed by this Court:

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"Today, Mrs.K.Shobana, Inspector of Police, C-1, Flower Bazaar Police Station, Mr.P.Saminathan, Superintendent of Police, Special Security Branch and Ms.Divya, Sanitary Inspector are present before this Court.

2. On instructions, Mr.Hasan Mohammed Jinnah, learned Public Prosecutor submitted that an unidentified body resembling by and large to Adikesavan was found on 03.08.2020 in Egmore area, in connection with which, a case in Egmore P.S.Crime No.636 of 2020 has been registered on 03.08.2020 under Section 174 Cr.P.C.

3. Mr.Hasan Mohammed Jinnah further submitted that after taking the finger prints and other measurements, the body has been buried by the Egmore police. He also submitted that if the petitioner appears before the Inspector of Police, C-1, Flower Bazaar Police Station, the police would take steps to match satisfactorily the identity of the dead body with that of the missing person Adikesavan through scientific means.

4. We find sufficient force in the above submission of Mr.Hasan Mohammed Jinnah. In view of the above, we direct the petitioner to cooperate with the police for the aforesaid purpose. If necessary, the police is also permitted to exhume the body for the purpose of either superimposition or DNA profiling. The revenue authorities shall also cooperate with the police in this regard.

Post this matter on 14.09.2021."

18. Pursuant to the above order, the matter was once again taken up for hearing on 22.03.2022 and an additional status report was filed by the Inspector of Police, C1 Flower Bazaar Police Station, Chennai. Taking note



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of the additional status report, the following order was passed by this Court:

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"Today, Mr.R.Dhalavoisamy, Inspector of Police, C1 Flower Bazaar Police Station, Chennai, and Ms.S.Dhivya, Sanitary Inspector, Alandur [Mobile No.94450 25962] are present.

2. Mr.R.Dhalavoisamy, Inspector of Police, has filed an additional status report dated 21.03.2022, wherein, it is stated that the DNA report dated 29.12.2021 showed negative results, in that, the DNA extracted from the exhumed body did not tally with the DNA of Thulasidass Adikesavan s/o.Adikesavan.

3. Mr.R.Muniyapparaj, learned Additional Public Prosecutor, submitted that the police are now trying to find out, if Adikesavan had died of any rail accident.

At the request of the learned Additional Public Prosecutor, adjd. to 19.04.2022."

19. The case came up for hearing thereafter on various occasions and the fact remains that till date, the missing person Adikesavan has not been traced either dead or alive and the stalemate continues.

20. We do appreciate the fact that the State of Tamil Nadu and the Greater Chennai Corporation were doing their best to fight the Covid-19 war. Therefore, we cannot fix the blame on any single officer for the lapse. However, it would have been in the fitness of things, if the Inspector of



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Police, S1, St.Thomas Mount Police Station, had registered a regular First Information Report of 'man-missing' when the complaint was given to him on 17.06.2020 itself. Instead, the family was made to run from pillar to post and ultimately, after great persuasion, the First Information Report in Crime No.458 of 2020 was registered by the Inspector of Police, G3 Kilpauk Police Station, only on 23.06.2020.

21. It is the grievance of the family of Adikesavan that had the police acted with alacrity, the police would have been in a position to trace Adikesavan. We do see sufficient force in the grievance ventilated by the family of Adikesavan.

22. The Inspector of Police, C1 Flower Bazaar Police Station, Chennai, is directed to continue with the investigation and take effective steps to find the whereabouts of the missing person Adikesavan. The Investigation Officer shall also take note of the guidelines issued by this Court in ***K.Sukumari v. The Superintendent of Police, Virudhunagar District, Virudhunagar and others [2018 (2) LW (Crl) 636]***, since the pending First Information Report



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pertains to a missing person.

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23. Taking into consideration the overall fact situation, we do not want to be too harsh on the State Government and instead, on humanitarian ground, we direct the State to pay a sum of Rs.1,00,000/- [Rupees One Lakh only] as compensation to the family of Adikesavan within a period of four weeks from the date of receipt of the copy of this order.

With the above direction, this Habeas Corpus Petition is disposed of.

[P.N.P., J]

[N.A.V., J]

19.12.2022

Index: Yes/No
gm

To

1.The Inspector of Police,
S-1, St.Thomas Mount Police Station,

14/16



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Railway Station Road,
Alandur, Chennai – 600 016.

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- 2.The Inspector of Police,
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- 3.The Inspector of Police,
Flower Bazaar Police Station,
Chennai.
- 4.The Commissioner,
Corporation of Chennai.
- 5.The Public Prosecutor,
High Court, Madras.

P.N.PRAKASH, J
and
N.ANAND VENKATESH, J



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gm

Pre-delivery Order
in
H.C.P.No.1149 of 2020

19.12.2022