



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2022

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P(MD)Nos.12287 of 2009

and

M.P(MD)Nos.1 of 2009 & 1 of 2010 & 1 of 2015

and

W.P(MD)No.4887 of 2010

and

M.P(MD)Nos.1 & 2 of 2010

W.P(MD)No.12287 of 2019

Mrs.Muthulakshmi

... Petitioner

Vs.

1.The State of Tamilnadu,
rep. by the Inspector of Police,
Peter Suresh,
Ambasamudram Police Station,
Tirunelveli.

2.Thiru.Murugesan,
Inspector of Police,
Mukudal Police Station,
Tirunelveli.

3.Thiru.Suresh Kumar,
Sub-Inspector of Police,
Veeranallur Police Station,
Tirunelveli.

4.Thiru.Srinivasan,
Sub-Inspector of Police,
Special Team,
Tirunelveli.

5.Thiru.Ashra Garg,
The Superintendent of Police,
Tirunelveli.



6.Thiru.Kannappan,
Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.

7.The Secretary,
Home Department,
Government of Tamilnadu,
Fort St. George,
Chennai-600 009.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to transfer the investigation in crime No.401 of 2009, dated 29.09.2009 from the file of the 1st respondent to that of Crime Branch Criminal Investigation Department, Chennai and to be investigated by a higher ranked officer in the interest of justice.

For Petitioner : Mr.T.Lajapathi Roy

For R1 : Mr.A.Thiruvadikumar
Additional Public Prosecutor

For R2 to R6 : Mr.C.Arul Vadivel @ Sekar
Spl. Public Prosecutor

W.P(MD)No.4887 of 2010

K.Prabakaran

... Petitioner

Vs.

1.The State of Tamilnadu,
rep. by the Home Secretary,
Secretariat,
Fort St. George,
Chennai.

2.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

3.The Superintendent of Police,
Central Bureau of Investigation (CBI),
'A' Wing 3rd floor, Rajaji Bhavan,
Besant Nagar, Chennai.

4.The Inspector of Police,
Ambasamudram Police Station,
Tirunelveli District.



5.The Sub-Inspector of Police,
Veeravanallur Police Station,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, directing the respondents No.3 to conduct the further investigation in PRC No.1 of 2010, dated 09.01.2020 pending before the Judicial Magistrate, Ambasamudram, Tirunelveli District filed in Crime No.401 of 2009, on the file of the respondent No.4 and file the final report within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy
For R2 to R5 : Mr.C.Arul Vadivel @ Sekar
Spl. Public Prosecutor

COMMON ORDER

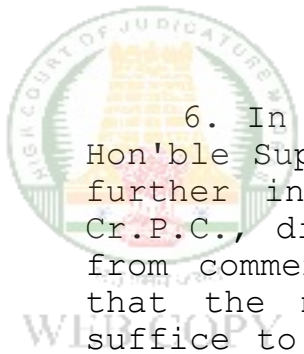
These two writ petitions arising out of the same criminal prosecution in Cr.No.401 of 2009, dated 29.09.2009.

2. It is a case of retaliatory murder, wherein, 15 accused were involved in the case and final report has also been filed after completion of investigation in P.R.C.No. 1 of 2010, dated 09.01.2010. W.P.(MD)No.12287 of 2009 filed by one of the accused for change of investigation and W.P.(MD)No.4887 of 2010 filed by another accused for further investigation.

3. This Court after going through the final report and the documents annexed along with final report finds that the prosecution after meticulous investigation has found that the conspiracy spanning for 3 ½ months to commit the retaliatory murder for double murder took place earlier. In furtherance of the conspiracy, one Ayyappan @ Manikandan was done to death on 29.09.2009. The police has filed the final report for the offences under Sections 147, 148, 120(b), 341 and 302 IPC and Section 5 of Indian Explosive Act and 25(1) (b) (a) of Arms Act r/w 149 IPC.

4. This is not a fit case of change of investigation or to order further investigation, since investigation has already been completed and final report has also been filed and ready to be committed to the Court of Sessions.

5. The learned Special Public Prosecutor appearing for the official respondents reports that the documents relied by the prosecution has been served to the accused persons in compliance with the provisions of Section 207 Cr.P.C., on 29.12.2021 and the matter stands adjourned for committal.



6. In the light of the above fact and the law laid down by the Hon'ble Supreme Court of India regarding Section 173(8) Cr.P.C., for further investigation and power of High Court under Section 482 Cr.P.C., directing the change of investigation, this Court restrain from commending upon the merit of the petition, except to record that the material collected by the Investigating Agency, it is suffice to proceed against the petitioner and there is no lapse on the part of the Investigating Officer. It is open to the petitioners to agitate their right and prove their innocence in the manner known to law before the trial Court.

7. The trial Court is directed to take note of the fact that the occurrence took place in the year 2009, therefore the Judicial Magistrate shall expedite the committal proceedings and once committed the Sessions Court shall frame charge and proceed with trial on day-to-day basis. The appearance of the petitioner in W.P (MD)No.4887 of 2010 is dispensed with as he is an Advocate by profession for hearing unless his presence is required for identification or for any other purpose, if the trial Court feel so.

8. With this observation, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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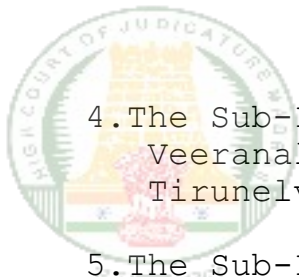
/ /2022

Sub Assistant Registrar(CS)

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To

- 1.The Judicial Magistrate,
Ambasamudram,
Tirunelveli District.
- 2.The Inspector of Police,
Peter Suresh,
Ambasamudram Police Station,
Tirunelveli.
- 3.The Inspector of Police,
Mukudal Police Station,
Tirunelveli.



4.The Sub-Inspector of Police,
Veeranallur Police Station,
Tirunelveli.

5.The Sub-Inspector of Police,
Special Team,
Tirunelveli.

6.The The Superintendent of Police,
Tirunelveli.

7.The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.

8.The Secretary,
Home Department,
Government of Tamilnadu,
Fort St. George,
Chennai-600 009.

9.The Superintendent of Police,
Central Bureau of Investigation(CBI),
"A" Wing 3rd floor, Rajaji Bhavan,
Besant Nagar, Chennai.

10.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/S.T.LAJAPATHI ROY, Advocate, SR-4573

W.P (MD) Nos.12287 of 2009

and

W.P (MD) No.4887 of 2010

03.02.2022

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