



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 04.02.2022

PRONOUNCED ON: 21.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.1733 of 2022

S.M.Kamal Moidheen

... Petitioner/Accused No.26

-Vs-

- 1.The Home Secretary,
Government of Tamil Nadu,
Home (Cts VIA Department)
St.George Fort,
Secretariat, Chennai.
- 2.The Superintendent of Police,
O/o, the Superintendent of Police,
Tenkasi District.
- 3.The District Collector,
Collectorate, Tenkasi District.
- 4.The District Collector,
Collectorate,
Madurai District.
- 5.The Inspector of Police,
Tenkasi Police Station,
Tenkasi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents 1 to 3 to appoint Special Public Prosecutor in S.C.No.3 of 2010 and in S.C.No.2 of 2010 which is pending on the file of the learned Special Additional District and Sessions Judge for communal clash cases, Madurai by considering the petitioner's representation dated 04.01.2022.

For Petitioner : Mr.S.M.A.Jinnah
For Respondents : Mr.M.Sakthi Kumar
Government Advocate (crl.side)

ORDER

Heard the learned counsel appearing for the petitioner and the learned Government Advocate (crl.side) appearing for the respondents.

2.One Abdullah @ Murugesan who is figuring as A2 in S.C.No.3 of 2010 on the file of the Special Additional District and Sessions Judge, for communal clash cases filed W.P.(MD)No.15613 of 2017 for directing the authorities to appoint a special public prosecutor in



the said case. The said writ petition was allowed on 03.12.2020 in the following terms:-

"4.Considering the above submission, Mr.Prabakaran, who is acted as Special Public Prosecutor in S.C.No.2 of 2010 on the file of the learned Special Additional District and Sessions Judge for communal clash cases, Madurai is appointed as Special Public Prosecutor to conduct trial in S.C.No.3 of 2010 before the same court. Mr.Rajendran is appointed as Special Public Prosecutor in S.C.No.2 of 2010 on the file of the same Court.

5.Accordingly, this writ petition stands allowed. However, the trial court is directed to complete the trial in S.C.Nos.2 of 2010 and 3 of 2010 within a period of three weeks from the date of receipt of a copy of this order."

3.The petitioner herein has filed a writ petition by pointing out that both Thiru.Prabakaran as well as Thiru.Rajendran have resigned and therefore, there is need to appoint a special public prosecutor for the aforesaid two cases.

4.The petitioner's counsel would point out that even though a direction has been given for completing the trial within three weeks and the order was passed on 03.12.2020, till date, there is no progress. The petitioner has also submitted a representation dated 04.01.2022. The petitioner is a senior citizen. He is aged about 72 years. He has to come all the way from Tenkasi for attending the cases. The accused is entitled to speedy trial.

5.Therefore, the third respondent is directed to appoint special public prosecutors for the purpose of conducting S.C.No.2 of 2010 & S.C.No.3 of 2010 on the file of the Special Additional District and Sessions Judge for communal clash cases, Madurai. Such an order will be passed within a period of 6 weeks from the date of receipt of a copy of this order. Once the special public prosecutors are appointed, the trial court would endeavour to conclude the trial as expeditiously as possible.

6.The writ petition is allowed on these terms. No cost.

Sd/-

Assistant Registrar(AE)

// True Copy //

/04/2022

Sub Assistant Registrar(CS)



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.

WEB COPY

To

- 1.The Home Secretary,
Government of Tamil Nadu,
Home (Cts VIA Department)
St.George Fort,
Secretariat, Chennai.
- 2.The Superintendent of Police,
O/o, the Superintendent of Police,
Tenkasi District.
- 3.The District Collector,
Collectorate,
Tenkasi District.
- 4.The District Collector,
Collectorate,
Madurai District.
- 5.The Inspector of Police,
Tenkasi Police Station,
Tenkasi District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High court,
Madurai.

W.P. (MD)No.1733 of 2022
21.04.2022

RS (27.04.2022) 3P 7C