



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

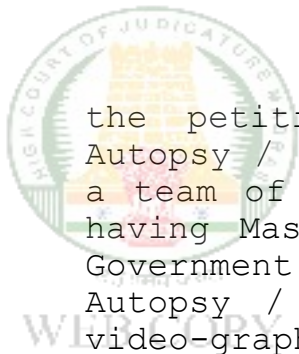
W.P. (MD)No.14724 of 2021

T.M.Nadar @ Thankarajan Muthayyan Nadar ... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. By the Secretary to Government,
Home (Police) Department,
Fort St. George,
Chennai.
 2. The Commissioner of Police,
Tirunelveli City,
High Ground,
Tirunelveli District.
 3. The Deputy Commissioner of Police(L &O),
Tirunelveli City, Tirunelveli.
 4. The Assistant Commissioner of Police (L&O),
Palayamkottai,
Tirunelveli City,
Tirunelveli District.
 5. The District Collector,
Tirunelveli District.
 6. The Inspector of Police,
Melapalayam police station,
South Bye Pass Road, Near New Bus Stand,
Tirunelveli District.
 7. The Inspector of Police,
Perumalpuram police station,
Palayamkottai Taluk,
Tirunelveli District.
 8. The Inspector of Police,
Nithiravilai police station,
Nithiravilai Taluk,
Tirunelveli District.
- ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to conduct fair investigation and to take steps to exhume the body of



the petitioner's married daughter viz. T.Nancy and to conduct Autopsy / Forensic Postmortem by a Civil Surgeon in the presence of a team of All India Institute of Medical Sciences (AIIMS) Doctors having Master Degree in Forensic Science at the expense of State Government in the presence of the petitioner and the entire Autopsy / Forensic Postmortem may be ordered to be X-rayed and video-graphed in the presence of the petitioner and subsequently direct the respondents to hand over the body remains of T.Nancy to the petitioner's family for reburial in the house property, after completion of the postmortem formalities fully.

For Petitioner : Ms.J.Anandhavalli
For Respondents : Mr.M.Sakthi Kumar,
Government Advocate (Crl. Side).
* * *

O R D E R

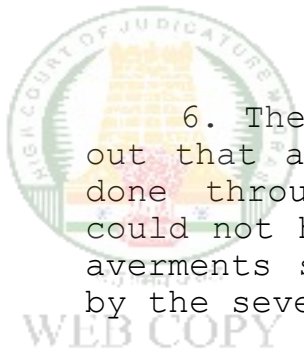
Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondents.

2. The petitioner's daughter Mrs.Nancy got married to Antojeromdhas in January 2010. A child was born in the year 2015. It was not a normal delivery, but through a Cesarean operation. The petitioner's daughter conceived for the second time. The petitioner's daughter and son-in-law came down to India from Dubai some time in June 2020. The petitioner is a lawyer practising in Mumbai. Since the pandemic was at its peak, the petitioner and his wife were not able to come down to Tirunelveli. The petitioner was informed that his daughter died on 09.08.2020 at 10.50 p.m. Immediately, the petitioner rushed to the hospital.

3. The petitioner suspects that his daughter had been murdered and that her organs have also been removed. The petitioner alleges collusion between his son-in-law and the hospital authorities. Though the complaint was given by the petitioner before Perumalpuram police station, no action was taken. Without informing the petitioner or obtaining his consent, his daughter's body was hurriedly buried. The petitioner's demand is that the body should be exhumed and postmortem should be performed as that alone will bring out the truth. Since no action was taken on his complaint, the present writ petition came to be filed.

4. The seventh respondent has filed counter affidavit opposing the prayer in the writ petition.

5. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of this writ petition.



6. The learned counsel appearing for the petitioner would point out that admittedly the petitioner's daughter's first delivery was done through Cesarean operation. Therefore, the second delivery could not have been a normal delivery. She drew my attention to the averments set out in paragraph No.9 of the counter affidavit filed by the seventh respondent.

7. It is seen therefrom that the petitioner's daughter Nancy was admitted for delivery at EL-Shaddai Nursing Home on 08.08.2020 at 07.20 a.m. But Cesarean operation was done only at 10.50 p.m. in the night. The gross delay in obtaining consent of the parents and the relatives ought to sow seeds of doubt in the mind of the Court. She would also point out that if a postmortem is performed, it would be known as to whether organs have been removed from the body of the petitioner's daughter.

8. The learned Government Advocate relying on the averments set out in the counter affidavit, submitted that there is no merit in this writ petition.

9. I carefully considered the rival contentions and went through the materials on record.

10. Admittedly, the petitioner's daughter passed away on 09.08.2020. She was buried a day later. We are now in January 2022. This writ petition itself came to be filed only on August 2021. At this point of time, no purpose will be served in directing the authorities to conduct the postmortem or autopsy. Be that as it may, when the petitioner has given the complaint as early as on 15.10.2020 and also several subsequent reminders have been sent, it is the duty of the seventh respondent to hold an enquiry and intimate the petitioner about the outcome. In this case, the complaint given by the petitioner has not been given a formal disposal. The seventh respondent claims in the counter affidavit that he had conducted enquiry with the doctors concerned. If that be so, the seventh respondent is directed to prepare a report and serve the same on the petitioner forthwith and without any delay. It is for the petitioner to take action in the manner known to law thereafter. All the rights and the remedies of the petitioner are left open.

11. This writ petition is disposed of. No costs.

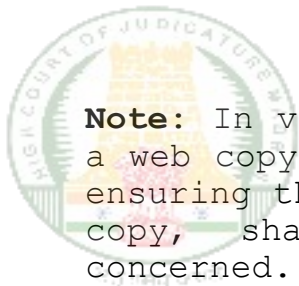
Sd/-

Assistant Registrar (P&A)

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/ /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.

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To:

- 1.The Secretary to Government,
Home (Police) Department,
Fort St. George, Chennai.
- 2.The Commissioner of Police,
Tirunelveli City, High Ground,
Tirunelveli District.
- 3.The Deputy Commissioner of Police(L &O),
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- 8.The Inspector of Police,
Nithiravilai police station,
Nithiravilai Taluk, Tirunelveli District.
- 9.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.J.ANANDHAVALLI, Advocate (SR-891[F] dated 10/01/2022)
W.P. (MD)No.14724 of 2021
07.01.2022

NSN (CO)

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