



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.16076 of 2021

K.Gunasekaran

... Petitioner

Vs

1.The Secretary to Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariat,
Chennai - 600 009.

2.The Inspector General of Police,
Tiruchirappalli Zone,
Tiruchirappalli.

3.The Deputy Inspector of Police,
Tiruchirappalli Zone,
Tiruchirappalli.

4.The Commissioner of Police,
Office of the Commissioner of Police,
Subramaniapuram,
Trichy - 620 020.

5.K.Thirumagal

6.J.Jerrence Jose Jerome

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondents 1 to 4 to take proper action on the representations of the petitioner, dated 08.07.2021 and 28.07.2021 and modify the F.I.R in Crime No.465 of 2021 for the offence under Section 302 of I.P.C and complete the investigation, within the time stipulated fixed by this Hon'ble Court.

For Petitioner : Mr.K.Sundaramoorthy

For RR 1 to 4 : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

ORDER

This Writ Petition has been filed for issuance of a writ of Mandamus, directing the respondents 1 to 4 to take proper action on the representations of the petitioner, dated 08.07.2021 and 28.07.2021 and modify the F.I.R in Crime No.465 of 2021 for the offence under Section 302 of I.P.C and complete the investigation.



2. The learned Government Advocate (Criminal Side) appearing for the respondents 1 to 4 submitted that on the complaint lodged by the petitioner, a case has been registered in Crime No.465 of 2021 alleging that the petitioner's wife admitted in the hospital, due to her ill-health. However, the Doctors have not treated her properly and died. While pending investigation, the second respondent issued summons on several occasions for the petitioner's appearance for investigation. However, the petitioner did not turn up and the investigation is still pending. He also produced the letter issued by the Joint Director of Health Department, Tiruchirappalli, dated 05.04.2022, stating that on the request made by the petitioner on 23.09.2021, enquiry has been postponed in respect of the improper treatment by Olymbia Hospital at Tiruchirappalli.

3.The petitioner as well as the request made by the Inspector of Police, Woraiyur Police Station, the Joint Director of Health Department, Tiruchirappalli issued summons to the petitioner to appear for enquiry. However, the petitioner failed to appear before the enquiry officer and as such, the Joint Director of Health Department could not able to send a proper reply to the Investigating Officer. On the complaint lodged by the petitioner, initially the Inspector of Police, Cantonment Police Station registered the F.I.R in Crime No.465 of 2021 under Section 174 of Cr.P.C. Thereafter, the entire investigation has been transferred to the Inspector of Police, Woraiyur and it is pending. While pending the investigation, the Inspector of Police, Woraiyur requested the Joint Director of Health Department to send an enquiry report.

4.Under these circumstances, the direction sought for in this Writ Petition to modify the F.I.R to alter the offence into Section 302 of I.P.C cannot be considered, since the petitioner did not co-operate for investigation before the Joint Director of Health Department as well as the Inspector of Police, Woraiyur Police Station. Therefore, the Writ Petition is devoid of merits and the same is dismissed. However, the Inspector of Police, Woraiyur Police Station, Tiruchirappalli is directed to alter the offence, if any cognizance offence is made out as against the hospital authorities for improper treatment. No costs.

Sd/-

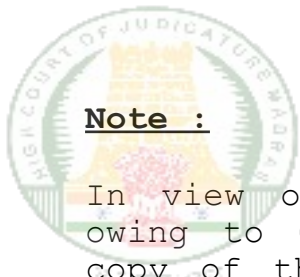
Assistant Registrar (AD I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ps



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 Secretary to Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariat,
Chennai - 600 009.
- 2.The Inspector General of Police,
Tiruchirappalli Zone,
Tiruchirappalli.
- 3.The Inspector of Police,
Woraiyur Police Station, Tiruchirappalli
- 4.The Deputy Inspector of Police,
Tiruchirappalli Zone,
Tiruchirappalli.
- 5.The Commissioner of Police,
Office of the Commissioner of Police,
Subramaniapuram,
Trichy - 620 020.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**W.P (MD) No.16076 of 2021
08.04.2022**

MGJ(27.04.2022) 3P 7C