



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Monday, the Nineteenth day of September Two Thousand and Twenty Two

PRESENT

WEB COPY

The Hon`ble Mr.Justice SATHI KUMAR SUKUMARA KURUP

WMP(MD) No.14850 of 2022
in
W.P. (MD) No.19037 of 2022

P.POONKODI

... PETITIONER

Vs

1. THE DIRECTOR GENERAL OF POLICE,
KAMARAJAR SALAI, MYLAPORE,
CHENNAI - 600 004.
2. THE INSPECTOR GENERAL OF POLICE,
RACE COURSE COLONY, NATHAM ROAD,
MADURAI - 625 002.
3. THE DISTRICT SUPERINTENDENT OF POLICE,
THENI, THENI DISTRICT - 625 531.
4. THE DEPUTY SUPERINTENDENT OF POLICE,
ANDIPATTI SUB DIVISION,
THENI DISTRICT - 625 512.
5. THE INSPECTOR OF POLICE,
KA. VILAKU POLICE STATION,
THENI DISTRICT - 625 512.
6. THE THASILDAR,
ANDIPATTI TALUK OFFICE,
THENI DISTRICT - 625 512.
7. THE DEAN,
THENI GOVERNMENT MEDICAL COLLEGE HOSPITAL,
KA. VILAKU, THENI,
THENI DISTRICT - 625 536.
8. THE MEDICAL OFFICER,
PRIMARY HEALTH CENTRE, RAJATHANI,
ANTIPATTI TALUK,
THENI DISTRICT - 625 512.

... RESPONDENTS



9. THE PRINCIPAL SECRETARY TO GOVERNMENT,
HEALTH AND FAMILY WELFARE DEPARTMENT,
SECRETARIAT, ST. GEORGE FORT,
CHENNAI - 600 009.

10. THE DEAN,
GOVERNMENT RAJAJI MEDICAL COLLEGE HOSPITAL,
MADURAI - 625 020.

... PROPOSED RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to pass an Interim Direction by directing the Respondents to constitute a medical board consisting of the Dean of Madurai Rajaji Government Hospital, Professors of Medicine, Head of Department of Obstetrics and Gynecology, Anesthesiologist, Cardiologist to examine the entire medical reports of deceased Kanimozhi and provide expert opinion to this Honourable Court within a stipulated time that may be fixed by this Honourable Court.

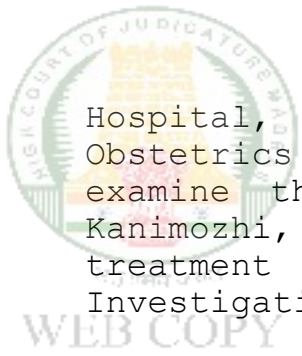
Prayer in WP(MD) . 19037/2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondent No.1 to 5 to take legal appropriate action based on the Petitioner's complaint dated 21.06.2022 and the subsequent representation dated 14.07.2022 and direct the Respondents No.1 to 3 to file periodic reporting of the progress of the investigation to this Hon'ble Court on the progress made in the investigation.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.KARUNANIDHI.R, Advocate for the petitioner and of MR.M.SAKTHIKUMAR, Government Advocate (Crl.Side) on behalf of the Respondents, the court made the following order:-

When the case came up for hearing, the learned Additional Public Prosecutor submitted that merely based on the surmises and conjectures, the investigation cannot proceed based on the suspicion of the Petitioner herein. Even though the FIR was registered, the Investigation Officer had to get expert opinion from the Doctors, who are well-versed with the medical treatment regarding the injury, loss and suffering due to medical negligence in the particular field of specialisation. Under those circumstances, the learned Additional Public Prosecutor rely on the reported Ruling ((2005) 6 SCC 1 (*Jacob Mathew vs State of Punjab and another*)).

2.The learned Counsel for the Petitioner by way of rejoinder, submitted that the Petitioner had filed this Petition to constitute a Medical Board consisting of the Dean of Madurai Rajaji Government



Hospital, Professors and Heads of the Departments of Medicine, Obstetrics and Gynaecology, Anaesthesiology and Cardiology, to examine the medical reports of deceased Petitioner's daughter, Kanimozhi, wife of Suresh, and give expert opinion regarding the treatment and delivery of the daughter of the Petitioner to the Investigation Team.

3. Based on the judgement of Honourable Supreme Court (above referred to) and based on the request of the learned Counsel for the Petitioner, this Petition is allowed. The Respondent No.9/The Principal Secretary to Government, Health & Family Welfare Department, Secretariat, St. George Fort, Chennai-600 009, in consultation with the Respondent No.10/the Dean, Government Rajaji Hospital, Madurai, is directed to constitute a Medical Team consisting of Professors and Heads of the Departments of Medicine, Obstetrics and Gynaecology, Anaesthesiology and Cardiology, as per the prayer of the Petitioner and submit a report to this Court within a reasonable period of one month.

4. Post the main case on 01.11.2022.

sd/-
19/09/2022

/ TRUE COPY /

20/09/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE DIRECTOR GENERAL OF POLICE,
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CHENNAI - 600 004.
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MADURAI - 625 020.

ORDER IN
WMP(MD) No.14850 of 2022
in
W.P.(MD) No.19037 of 2022
Date :19/09/2022

cmr

USK/SBN/SAR-II/20.09.2022/4P/11C