

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.10.2022

CORAM

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

W.P(MD)No.24274 of 2022

and

W.M.P.(MD)No.18381 of 2022

S.Arumugam

Vs.

... Petitioner

- 1.The State of Tamil Nadu,
represented by its Secretary to Government
(Home Department),
St.George Fort, Chennai.
- 2.The Director General of Police,
Office of the Director General of Police,
Dr.Radhakrishnan Road,
Mylapore, Chennai-600 004.
- 3.The District Collector,
Tenkasi District.
- 4.The Deputy Inspector of Police,
Tirunelveli Region, Tirunelveli.
- 5.The Superintendent of Police,
Tenkasi District.
- 6.The Deputy Superintendent of Police,
Kadayanallur Taluk, Tenkasi District.
- 7.The Inspector of Police,
Sendhamaram Police Station,
Tenkasi District.
- 8.The Deputy Superintendant of Police,
CBCID, Tenkasi District.

8.The Hindu Nadar Uravin Murai Committee,
Higher Secondary School,
represented by its Secretary,
Ariyanayagaipuram,
Kadayanallur Taluk, Tenkasi District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the second Respondent herein to transfer the investigation of the case in Cr.No.310 of 2022 on the file of the of the seventh Respondent to the eight Respondent, Tenkasi based on the Petitioner's representation, dated 16.10.2022.

For Petitioner :Mr.L.Shaji Chelliah

For Respondents :Mr.T.Senthil Kumar

Additional Public Prosecutor

ORDER

This Writ Petition has been filed seeking for a direction to the second Respondent herein to transfer the investigation of the case in Cr.No.310 of 2022 on the file of the seventh Respondent to the eighth Respondent, based on the Petitioner's representation, dated 16.10.2022.

2.The learned Counsel for the Petitioner submitted that the Petitioner's second son was studying in seventh standard in the ninth Respondent School. The Petitioner, as per the affidavit in the Writ

Petition, blames all the Teachers of the seventh standard, particularly, the Class Teacher, Mr.Prasanna, Maths Teacher, Mr.Anand and Physical Education Teacher, Mr.Sakthi Murugan, having discriminated the Petitioner's younger son on the basis of the caste. Therefore, the Petitioner's younger son alleged to have complained to the Petitioner and his wife. The Petitioner and his wife, on the basis of the complaint of the second son, had come to the School and met the Head Master of the School, Chelliah, who had, after hearing the Petitioner and his wife, responded, stating that the students of the School had to face the Teacher's treatment and if they are unable to bear it, the parents are within their discretion to take back the child out of the School by obtaining Transfer Certificate from the School. Therefore, the learned Counsel for the Petitioner submitted that the Head Master was also a party to the discrimination followed by other Teachers.

3.On 14.10.2022, the Petitioner and his wife, who are daily wage earners, left for their job. The second son left for School. By around 11.00 or 11.30 am., a neighbour, by name, Murugeshwari, informed the Petitioner that the younger son of the Petitioner was found hanging from the ceiling fan in their house. It is the further contention of the learned Counsel for the Petitioner that by the time, they rushed towards their house, there were Police Officials in the vicinity of their

house, it was surprise to them that before ever they reached the house, the Police Officials from the nearby Police Station, which is 7 km far away, had reached their house. It is the further contention of the learned Counsel for the Petitioner that in the room, where the younger son of the Petitioner had alleged to have committed suicide, there was no stool or furniture available for the younger son of the Petitioner to reach the ceiling fan. Also, when noose around the neck of the boy was removed, it was found that it was a perfectly put up noose, which the boy of that age would not have made. Therefore, he suspects foul play in the death of his son. There were injury marks on the body of the deceased. He had given all these defects to the Police Officials, who were available before their house and who had reached the place earlier to the Petitioner. The Investigation Officer had not conducted the inquest on the body of the second son of the Petitioner. What are all pointed out by the Petitioner were not at all considered or taken note of by the Investigation Officer. Therefore, he had come up with the Petition seeking a direction to transfer the investigation of the case in Cr.No.310 of 2022 on the file of the seventh Respondent Police to the eighth Respondent Police, the Deputy Superintendent of Police, CBCID, Tenkasi.

4.The learned Additional Public Prosecutor, by way of reply, submitted that the Petitioner himself had lodged a complaint, based on

which, FIR was registered on 14.10.2022 itself. The body was brought to Tirunelveli Medical College Hospital and postmortem was performed by the Head of the Department of the Forensic Medicine and it was videographed. The learned Additional Public Prosecutor further submitted that the Petitioner, on the date of occurrence, had clearly stated the facts. The body was taken to Tirunelveli Medical College Hospital and postmortem performed on 15.10.2022 by around 03.30 pm and all Standard Operating Procedures were followed by videographing the entire postmortem procedure.

5.While so, some political elements in the vicinity of the place of residence of the Petitioner wanted to give it a political colour and instigated the Petitioner to file this Writ Petition. It is the further submission of the learned Additional Public Prosecutor, on instructions from the seventh Respondent, that in the Government Hospital, when the body was handed over after the postmortem, the Petitioner refused to receive the body. Also, some political leaders have instigated the Petitioner and relatives of the Petitioner, who had gathered near the Medical College Hospital, to attack the Police Officials thereby creating law and order problem. Two FIRs were registered due to the subsequent events. The learned Additional Public Prosecutor also submitted that on earlier occasion, this Court observed that politics over dead body is

indulged in by the political elements creating law and order problem. Also, the learned Additional Public Prosecutor submitted that in the light of the unfortunate incidents in the Kallakurichi School incident, the Police had taken steps to maintain peace and public order by posting police pickets in the village and in the Hospital, where the body of the deceased son of the Petitioner is preserved. There are six hundred police on duty to maintain law and order in the place.

6.Also, the learned Additional Public Prosecutor in the course of arguments submitted that the elder son of the Petitioner is also studying in the very same school. Both the students were undergoing their education right from Standard-I in the School belonging to the ninth Respondent. There are 105 students belonging to the Scheduled Caste community, out of which 45 students are Scheduled Caste (Arundhathiyar) Community. If what had been contended by the Petitioner were true, by this time, the Human Rights Commission and the Commission dealing with the atrocities on SC/ST community, would have passed appropriate orders directing the authorities to close the School.

7.The learned Additional Public Prosecutor submitted that the seventh Respondent had conducted the investigation fairly and about 15 students studying in the same class along with the Petitioner's second

son were examined. Statements of those students and other witnesses were also recorded and it was found that on the date of alleged occurrence, the Petitioner's second son had not attended the School. Also, he had furnished the mark list of the second son of the Petitioner, in which out of 5 subjects, he had scored only 61 marks in total. He also submitted that by falsely implicating the Teachers, the Petitioner is attempting to tarnish the image of Teachers of the ninth Respondent School on instigation of mischievous elements with ulterior motive to get political mileage from an unfortunate incident. By fair investigation, innocents will not be arrayed as accused, as original accused will not be allowed to escape.

8.It is pointed out by the learned Additional Public Prosecutor that in the matters of this nature, where there are alleged suicides/accidental deaths, it is converted as murder by invoking Writ jurisdiction and also at the same time, using pressure tactics. The relatives of the deceased are not accepting the body of the dead person. It is to be noted that the Constitution of India guaranteed its citizens fundamental rights which includes right to a decent burial of the dead person. Here, the deceased is exploited, thereby, delaying the decent burial of the deceased, who is also a citizen of this country, as per the guaranteed rights under Constitution of India. It is painful and

condemnable.

9. Some months earlier, there was a similar incident in Kallakurichi, which was in the headlines of all the news papers, where the parents of the deceased wanted to order re-postmortem, which was refused by the Division Bench of this Court stating that it had been videographed, as per the Standard Operating Procedure in cases of this nature. It is still under investigation in that case. The news of the said case had caused similar cases throughout the State of Tamil Nadu, whereby, the politicians in the vicinity of the place, where such occurrence is taken place, instigate the parents and relatives of the minor child, who died either due to accident or by suicide, instigated them to refuse to receive the body, which cannot be accepted under the principles of freedom guaranteed to the citizens including decent burial.

10. In the light of the above, the request of the Petitioner to conduct a re-postmortem and to transfer the investigation cannot be accepted. The Inspector General (South Zone), Madurai, is directed to nominate a Senior Police Officer, not below the rank of Deputy Superintendent of Police, to investigate this particular case, since it involves unwanted controversies and to avoid and to protect the police officials from the unwarranted attack. It is directed that the

investigation from the file of the seventh Respondent shall be withdrawn by the Inspector General of Police (South Zone), Madurai and handed over to a Police Officer, not below the rank of Deputy Superintendent of Police and it may be supervised by the Deputy Inspector General of Police. Also, it is pointed out that if the parents of the deceased student who was aged about 12 years refuse to accept the dead body of the deceased by 10.00 am on 20.10.2022, the Superintendent of Police and the District Collector of Tenkasi District may direct their subordinates to bury the dead body with decent burial by 05.30 pm on 20.10.2022.

11.After pronouncing the orders in open Court, the learned Counsel for the Petitioner demanded this Court to upload the order tonight itself. The demand of the learned Counsel for the Petitioner is found objectionable as dictating terms to the Court, which cannot be appreciated by any Court of Law.

12.With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions is closed.

19.10.2022

Index : Yes / No

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Note : Issue order copy by **20.10.2022**

To

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