



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP (MD) No.22885 of 2021

and

WMP (MD) No.361 of 2022

Ramalakshmi

... Petitioner

Vs.

- 1.The Principal Secretary,
Home Department,
Secretariat, Chennai - 600 009.
- 2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.
- 3.The District Collector,
Ramanathapuram,
Ramanathapuram District.
- 4.The District Superintendent of Police,
Ramanathapuram,
Ramanathapuram District.
- 5.The Deputy Superintendent of Police,
Mudukulathur Sub Division,
Ramanathapuram District.
- 6.The Deputy Superintendent of Police,
Thiruvadanai Sub Division,
Ramanathapuram District.
- 7.The Revenue Divisional Officer,
Paramakudi, Ramanathapuram District.
- 8.The Tahsildar,
Mudukulathur Taluk,
Ramanathapuram District.
- 9.The Inspector of Police,
Keelathooval Police Station,
Ramanathapuram District.

(Crime No.258 of 2021)



10.The Joint Director,
Central Bureau of Investigation (CBI),
Rajaji Bhavan, Chennai - 600 090.

11.The Dean, Ramanathapuram
Government Medical College Hospital,
Ramanathapuram District.

12.The Chief Medical Officer,
Mudukulathur, Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, for transferring the investigation in Crime No.258 of 2021 from the 9th respondent to CBI for a fair and impartial investigation and to file report after its investigation and directing the respondents to pay compensation under Section 357A of Cr.PC to the loss which this Court deems fit and directing any other remedy this Court deems fit in Crime No.258/2021 of Keezhathooval Police Station of this case and thus render justice.

For Petitioner : Mr.K.Surendran

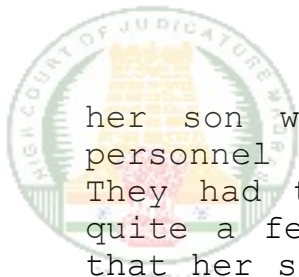
For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor

ORDER

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

2.The petitioner's son Manikandan died under unnatural circumstances and that led to the registration of Crime No.258 of 2021 under Section 174(1) of Cr.PC. Postmortem was performed on the petitioner's son by the doctors attached to the Mudhukulathur Government Hospital. Expressing her dissatisfaction over the manner in which the postmortem was done, the petitioner filed WP(MD) No.21752 of 2021 before this Court. This Court allowed the said writ petition and directed conducting of a second postmortem since on the first occasion, forensic autopsy was not done. The petitioner has once again moved this Court seeking transfer of investigation to CBI. The petitioner has also sought the relief of payment of compensation.

3.The respondents have filed counter affidavit opposing the writ prayer. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and also addressed the court by raising quite a few other legal contentions. According to the petitioner,

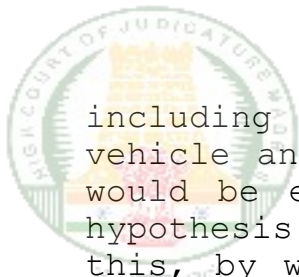


her son was riding a two wheeler on 04.12.2021 and the police personnel attached to the Keelathooval Police Station stopped him. They had taken him to the station premises and detained him for quite a few hours. The specific allegation of the petitioner is that her son was brutally tortured. Later she was intimidated by the Keelathooval Police to come to the station and take her son. The petitioner is a rustic lady and not quite conversant with the ways of the world. She was directed by the police to take her son home and the petitioner meekly complied with the same. She however claimed that her son had complained to her about the custodial torture meted out to him. The petitioner is said to have told him that they would take him to the hospital next day. But little past midnight, the petitioner's son vomited blood and died. According to the petitioner, since the allegations have been made against the local police and since she does not have faith and confidence in them, the case has to be necessarily transferred to CBI.

4.The learned Additional Public Prosecutor appearing for the respondents took me through the contents of the status report. He submitted that this is not a case of custodial death and that the investigation conducted so far does not point to any wrong doing on the part of the police attached to the Keelathooval Police Station and that the case deserves to be dismissed.

5.I carefully considered the rival contentions and went through the materials available on record. It is a fact that postmortem was performed on the deceased Manikandan twice. Immediately after the registration of the FIR, postmortem was done by the doctors attached to the Mudhukulathur Government Hospital. The petitioner thereafter alleged that the it was not properly conducted and therefore, a second postmortem must be performed. Since the directions given in **W.P. (MD) No. 12608 of 2020 (Santhosh vs. The District Collector, Madurai and Ors.)** were not complied with, I allowed WP(MD)No.21752 of 2021 filed by the petitioner and directed that the second postmortem will have to be done. Accordingly, a second postmortem was done in Ramanathapuram Medical College and Hospital. It was a forensic autopsy. The final opinion given by the forensic doctors is to the effect that the deceased would appear to have died of monocrotophos poisoning. I must also record that the doctors who performed the first postmortem as well as the second one had categorically noted that no injuries were found on the private parts of the deceased. In fact, no major ante mortem injury was found on the body.

6.The investigation officer submitted before this Court that the two wheeler which the deceased was riding during the relevant time appears to be a stolen vehicle. That is why, when the police asked him to stop, he did not stop. However, he was secured later and brought to the police station. The specific stand of the police is that the deceased Manikandan was asked to bring the documents



including RC book relating to the vehicle. Since it was a stolen vehicle and since the deceased Manikandan was apprehensive that he would be exposed, he had consumed poison. This is the tentative hypothesis proposed by the investigation officer. In support of this, by way of corroboration, the Deputy Superintendent of Police stated that the brother of the deceased had contacted one Hariharan who is based in Chennai for getting the original RC book. In order to satisfy my conscience, through Video Conferencing, I had an interaction with the said Hariharan. He confirmed that on 04.12.2021 during night hours, he received a call from the brother of the deceased and he was requested to immediately make available the original RC book of his two wheeler. The said Hariharan was also having a Bajaj Pulsar bike. The vehicle which the deceased was riding was also of the same make. Therefore, prima facie I am satisfied that the prosecution is going on the right lines. No case has been made out that the deceased Manikandan died as a result of any custodial torture. In any event, these are reasons only to deny relief in this writ petition. If in consonance with the theory proposed before me, the investigation officer files final report, the petitioner will be entitled to file protest petition before the jurisdictional court and the jurisdictional court will take the call. All the contentions of the petitioner are left open.

7.This writ petition stands dismissed. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

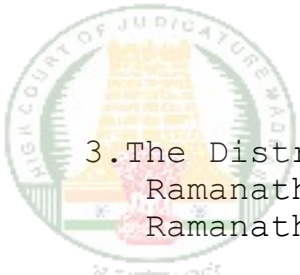
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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Principal Secretary,
Home Department,
Secretariat, Chennai - 600 009.
- 2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.

<https://hcservices.ecourts.gov.in/hcservices/>



- 3.The District Collector,
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- 4.The District Superintendent of Police,
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Mudukulathur, Ramanathapuram District.
- 13.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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WMP (MD) No.361 of 2022
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RD(11.02.2022) 5P 14C