



W.P.(MD)No.27098 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2022

CORAM

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

W.P.(MD)No.27098 of 2022

and

W.M.P.(MD)No.21250 of 2022

A.Thiruselvam

... Petitioner

Vs.

- 1.State of Tamil Nadu represented by
The Principal Secretary,
Department of Home,
State Secretariat, Fort St.George,
Chennai-600 009.
- 2.The Principal Secretary to the Government,
State of Tamil Nadu,
Health and Family Welfare Department,
Fort St.George, Chennai 600 009.
- 3.The Additional Chief Secretary,
The State of Tamil Nadu,
Adi Dravidar and Tribal Welfare Department,
Fort St.George, Chennai - 600 009.
- 4.The Director General of Police,
Office of the Director General of Police,
Dr.Radhakrishnan Salai, Chennai-600 004.
- 5.The Additional Director General of Police (CB-CID),
SIDCO Electronics Complex,
Block No.3, 1st Floor,
Guindy Industrial Estate, Chennai- 600 032.



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- 6.The Additional Director General of Police,
Human Rights and Social Justice Wing,
Director General of Police, Post Box No.601,
Dr.Radhakrishnan Salai, Mylapore,
Chennai - 600 004 (PBX No.28448000)
- 7.The Inspector General of Police,
Central Zone, Kajamalai Colonym,
Edamalaipattipudur, Trichy District,
Tamil nadu 620 023.
- 8.The District Collector,
Office of the District Collector,
Pudukottai District.
- 9.The Superintendent of Police,
Pudukottai District, Pudukottai.
- 10.The Additional Superintendent of Police,
Crime Against Women and Children,
Pudukottai District.
- 11.The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Alangudi, Pudukottai District.
- 12.The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Human Rights and Social Justice Wing,
SP Office Campus, Pudukottai District.
- 13.The Inspector of Police,
Karambakudi Police Station, Pudukottai District.
- 14.The Dean,
Government Medical College,
Pudukottai, Pudukottai District.
- 15.The Dean,
Government Medical College,
Thanjavur, Thanjavur District.



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16.The Dean,
Government Medical College,
Trichy, Trichy District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to withdraw the case in Cr.No.406 of 2022, dated 25.11.2022 on the file of the Respondent No.13 and entrust the same to Respondent No.5 or any other competent officials for completion of investigation in accordance with law within a time stipulated by this Court.

For Petitioner :Mr.R.Alagumani

For Respondents :Mr.T.Senthil Kumar

Additional Public Prosecutor

ORDER

This Writ Petition had been filed seeking for a Writ of Mandamus to withdraw the case in Cr.No.406 of 2022, dated 25.11.2022 on the file of the Respondent No.13 and entrust the same to Respondent No.5 or any other competent officials for completion of investigation in accordance with law within a time stipulated by this Court.

2.The learned Counsel for the Petitioner submitted that the Petitioner's wife belongs to Scheduled Caste community. On 23.11.2022, his wife went to work as usual, but did not return home from work place.



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Therefore, the father in-law of the Petitioner lodged a complaint on 25.11.2022 with the Karambakudi Police Station and an FIR in Cr.No.406 of 2022 was registered as woman missing. No steps were taken by the officials of Karambakudi Police Station, to trace out the missing woman. On 27.11.2022, the half naked body of the deceased was identified by the sister of the deceased woman in an Eucalyptus grove, which is 7 km away from Karambakudi Police Station. Till 28.11.2022, there was no alternation report. Hence, the Petitioner seeks to transfer the investigation from the file of the Respondent No.13, to Respondent No.5 or to any other agency. The learned Counsel for the Petitioner submitted that the Petitioner suspects that his wife was subjected to gang rape and murdered.

3.The learned Additional Public Prosecutor vehemently objected to the request for transfer of investigation. He fairly conceded the case upto the registration of FIR. The unfortunate incident of the death of woman in unfortunate situation had caused pain and sufferings to the family of the victim is conceded by the learned Additional Public Prosecutor. At the same time, the learned Additional Public Prosecutor objected to the request of the learned Counsel for the Petitioner seeking transfer of investigation, as the investigation had proceeded from the date of finding the dead body in the eucalyptus grove.



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4.The submission of the learned Counsel for the Petitioner that the woman missing complaint given by the father of the deceased regarding missing of her daughter, subsequently tracing the body in a decomposed state roughly 7 km away from Karambakudi Police Station, which was identified by the sister of the deceased, in which, till today, the Police had not altered the offence in the FIR is disputed by the learned Additional Public Prosecutor, stating that immediately after the body was identified, the investigation had proceeded regarding the place, where the deceased worked till the date of missing. From that place, the investigation commenced. There is videograph of the same. The deceased prior to her death on the working day, after working hours leaving the fancy store at Pudukottai Town towards the Bus Stand. On the way, she had been speaking to some one on the mobile phone. Based on that videograph, the mobile phone was traced, in which, the Investigation Officer, from the Call Detail Records, traced out one Pandiarajan, aged about 19 years, who was a close friend of one Saravanan, who happens to be an acquaintance of the deceased for quite a long time. The said Saravanan had introduced the said Pandiarajan, who was the person in contact with her immediately prior to her death. Therefore, based on the call details, the Police had detained the accused, Pandiarajan and Saravanan. The body is now in the mortuary of



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Pudukottai Government Medical College Hospital.

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5.As per the submission of the learned Additional Public Prosecutor, the Police had given requisition for postmortem. Since this Writ Petition was filed, on legal advice, the Investigation Officer had requested the Professor of Forensic Medicine not to proceed with autopsy till an order is passed in this Writ Petition filed by the family of the deceased. Therefore, they are waiting for an order from this Court. The learned Additional Public Prosecutor also submitted that investigation had fairly proceeded till date, except the postmortem was stopped by the Investigation Officer, since this Writ Petition had been filed.

6.On perusal of the affidavit filed in support of this Writ Petition, it is found that the Writ Petitioner has impleaded about 16 Respondents, namely, 1.The Principal Secretary, Department of Home, 2.The Principal Secretary to the Government, State of Tamil Nadu, Health and Family Welfare Department, 3.The Additional Chief Secretary, The State of Tamil Nadu, Adi Dravidar and Tribal Welfare Department, 4.The Director General of Police, Office of the Director General of Police, Dr.Radhakrishnan Salai, Chennai-600 004, 5.The Additional Director General of Police (CB-CID),Chennai- 600 032, 6.The Additional Director



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General of Police, Human Rights and Social Justice Wing, Chennai - 600 004, 7.The Inspector General of Police, Central Zone, 8.The District Collector, Office of the District Collector, Pudukottai District, 9.The Superintendant of Police, Pudukottai District, Pudukottai. 10.The Additional Superintendant of Police, Crime Against Women and Children, Pudukottai District, 11.The Deputy Superintendant of Police, Alangudi, Pudukottai District, 12. The Deputy Superintendant of Police, Office of the Deputy Superintendant of Police, Human Rights and Social Justice Wing, Pudukottai District, 13.The Inspector of Police, Karambakudi Police Station, Pudukottai District. 14.The Dean, Government Medical College, Pudukottai, Pudukottai District. 15.The Dean, Government Medical College, Thanjavur, Thanjavur District and 16.The Dean, Government Medical College, Trichy, Trichy District.

7.In the course of arguments, the learned Counsel for the Petitioner submitted that a Forensic Team shall be constituted in which, the Professors of Forensic Medicine, Pudukottai Medical College, Thanjavur Medical College and Trichy Medical College shall be directed to proceed with the postmortem.

8.The request of the learned Counsel for the Petitioner to form a team of Forensic Experts cannot be accepted, since the Doctors in the



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Pudukottai Medical College Hospital, particularly the Professors of Forensic Medicine, are well equipped to deal with the postmortem of any kind. As per the ruling of the Honourable Supreme Court in matters of this nature, where there are suspicion while conducting postmortem, the Doctor, who perform the autopsy, shall take video recording of the entire procedure, so that in future, when any doubts are raised, the video recording will be shown to experts with whom the family of the deceased has belief. In the light of the above, the request of the learned Counsel for the Petitioner to form a team of Forensic Experts from three Medical Colleges of Pudukottai, Thanjavur and Trichy, cannot at all be accepted.

9.As per the submission of the learned Additional Public Prosecutor, the Medical College Pudukottai, itself has a full fledged Forensic Department, namely, Associate Professor Dr.K.Tamil Mani, Assistant Professor Dr.S.Valliyappan and Tutors Dr.Muthumuneeswaran and Dr.Mathanraj.

10.The query of this Court to the learned Additional Public prosecutor, whether the persons mentioned above are qualified as M.D. (Forensic Medicine), on instructions from the Investigation Officer, the learned Additional Public Prosecutor submitted that they are duly qualified to conduct Postmortem as per the Indian Medical Council Act



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and as per the guidelines regarding the conduct of postmortem on suspected murder cases. Therefore, Associate Professor, Dr.K.Tamil Mani, Associate Professor of Forensic Medicine, Pudukottai Medical College Hospital along with his colleagues, Assistant Professor of Forensic Medicine Dr.S.Valliyappan and Tutors of Forensic Medicine Dr.Muthumuneeswaran and Dr.Mathanraj, shall perform autopsy on the body of the deceased. The request of the learned Counsel for the Petitioner seeking a team of Professors of Forensic Medicine from three different Medical Colleges is rejected.

11.Also, it is pointed out that while conducting autopsy on the body of the deceased, it shall be videographed, so that in future, for any doubt raised by the family of the deceased, the prosecution is duty bound to answer with proper clearance. Also, they are entitled to get a copy of the same.

12.In the course of the arguments, the learned Additional Public Prosecutor submitted that it had transpired that the victim belonging to Scheduled Caste community. Therefore, the Superintendant of Police, Pudukottai District, had passed proceedings, thereby, nominating the Deputy Superintendant of Police, Alangudi, the Respondent No.11 herein, as Investigation Officer. Since the victim happens to be the member of



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Scheduled Caste community. As per the SC/ST (PoA) Act, a person not below the rank of Deputy Superintendant of Police alone empowered to investigate the case of this nature.

13.The learned Additional Public Prosecutor, on instructions from the Superintendant of Police, Pudukottai District, submitted that investigation had fairly proceeded till date and there is no necessity for transfer of investigation to a different agency, even though the apprehension expressed by the Petitioner at the time of filing of this Petition, may be true. It is not true. Considering the nature of the death of the deceased and the circumstances in which, the body was found, it causes agitation in the minds of the general public regarding the safety of woman and repercussion in the society. The learned Additional Public Prosecutor, on instructions from the Superintendant of Police, submitted that investigation had fairly proceeded based on Call Detail Records and the main accused, who was in contact with the deceased woman, had been detained and is to be forwarded to the Court of the learned Special Judge, Special Court for PCR Act cases, Pudukottai. He submitted that 18 witnesses had been examined and statements were recorded and call details collected. He further submitted that there is sufficient materials to array the accused, who is 19 years old.



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14.In the light of the submission made by the learned Additional Public Prosecutor, on instructions from the Superintendent of Police, Pudukotai, the investigation is till now fairly proceeded. It is to be noted that based on the confession of the 19 years old accused, Pandiarajan, the mobile phone belonging to the deceased that was destroyed by the accused and sim card had been recovered. Therefore, the apprehensions expressed by the Petitioner are not found acceptable and reasonable for this Court to transfer the investigation, when it had proceeded fairly, as per the submission of the learned Additional Public Prosecutor.

15.In the course of the arguments, the learned Additional Public Prosecutor further submitted that in the case of this nature, the local politicians, who are fishing in troubled waters, had instigated the family of the deceased not to accept the body. It is found from news papers reports that whenever there are deaths due to accidents and due to suicide, it is attempted to be made as a murder in very many cases, in which paper report states that the relatives had conducted dharna in front of the Medical College.

16.In this case also, the learned Additional Public Prosecutor submitted that the relatives of the deceased had conducted dharna on the Pudukottai-Karambakudi Road. In cases of this nature, the family of the



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victim will be under severe mental strain and utter confusion, which are exploited by the political parties at the local level for their selfish interest. Even though the family of the victim maintained calm, because of the confusion and stress, it is given different colour for their own political ends, thereby, denying them the right to accept the dead body of the near and dear ones. That amounts to showing disrespect to the individual, who is no more.

17.As per Constitution of India, the right to life and liberty includes the right to dignified funeral. Here, the relatives of the near and dear ones refused to receive body, particularly, the body was seen in a decomposed state in an eucalyptus grove. Under those circumstances, body cannot be preserved in the mortuary of the Medical College also. Therefore, what remains after autopsy, has to be given a decent burial, as per the religious rights of the person, who is dead. For that, after the postmortem, a reasonable time of 12 hours may be given to the relatives of the deceased to accept the body of the deceased to enable them to perform last rites, failing which, the Collector, Pudukottai District and the Superintendant of Police, Pudukottai District, are directed to ensure that on 01.12.2022 by 10.00 am, the body should be buried with due and proper respect and dignity as per the dignified rights of the dead person,



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whose rights are also guaranteed under the Constitution of India.

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18.For the present, the Writ Petition is disposed of with these directions. Regarding the other requests, that are sought in this Writ Petition, can be looked into by the family of the deceased by approaching the officials concerned.

19.If the accused happens to belong to any other community, the family of the deceased is entitled to get interim relief as per the provisions of SC/ST (PoA) Act.

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

29.11.2022

Index : Yes / No

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Note: Issue order copy by **30.11.2022**



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