



W.P.No.505 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.505 of 2023

W.Gowsalya

... Petitioner

Vs.

1. The District Collector cum District Magistrate,
Chennai District,
Rajaji Salai,
Chennai – 600 001.
 2. The Commissioner of Police,
Greater Chennai,
Vepery,
Chennai – 600 007.
 3. The Deputy Commissioner of Police,
Nungambakkam.
Chennai.
 4. The State Represented by,
Inspector of Police,
W-1, AWPS, Thousand Lights P.S,
Chennai.
- ...Respondents

PRAYER: This Writ Petition is filed under Article 226 of The Constitution of India pleaded to issue the Writ of Mandamus calling for the records from the 1st Respondent's Order Rc.No.1569/2022/R5; Dated 18.11.2022 and



W.P.No.505 of 2023

quash the impugned order and consequently direct the 1st Respondent to appoint Mr.R.Sankarasubbu as Special Public Prosecutor in Crime No.06 of 2022 of W1 AWPS Thousand Lights Police Station.

For Petitioners : Mr.G.Prabhu
For Respondents : Mr.S.Santhosh

Government Advocate (Crl.Side)

ORDER

This Writ Petition is filed to call for the records from the 1st Respondent's Order Rc.No.1569/2022/R5; Dated 18.11.2022 and quash the impugned order and consequently direct the 1st Respondent to appoint Mr.R.Sankarasubbu as Special Public Prosecutor in Crime No.06 of 2022 of W1 AWPS Thousand Lights Police Station.

2. The learned counsel for the petitioner submitted that the accused in this case had met the learned Special Public Prosecutor on 05.04.2022 at the office of the learned Special Public Prosecutor. Therefore, the petitioner had no confidence on the learned Special Public Prosecutor that he would conduct the case in a fair manner. In this regard, the petitioner had filed a petition in Crl.O.P.No.24621 of 2022 before this Court seeking direction to



W.P.No.505 of 2023

the 1st respondent therein to appoint eminent advocate Mr.R.Sankarasubbu, Chennai as Special Public Prosecutor to conduct the prosecution in the Spl.S.C.No.2 of 2022 pending before the learned Principal District and Sessions Court-Cum-Special Court for SC/ST Cases, Chennai. This Court directed the petitioner to submit fresh representation before the 1st respondent therein and on receipt of the same, the 1st respondent was directed to consider the same on merits and take action in accordance with law. Pursuant to which, the petitioner submitted the representation before the 1st respondent, however, the same was rejected by the 1st respondent in R.C.No.1569/2022/R5 dated 18.11.2022. Challenging the said dismissal order, this petition is filed.

3. The learned counsel for the petitioner relied on the Rule 4(5) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities Act, 1989 (Amendment Act, 2015) held that eminent Senior Advocate may be appointed as Special Public Prosecutor, if it is decided by the victim.

4. In response, the learned Government Advocate (Crl. Side) submitted that Rule 4(5) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities Act), 1989 (Amendment Act, 2015) has given only



W.P.No.505 of 2023

the discretionary power of the District Magistrate and further held that it is not mandatory for the District Magistrate to appoint Senior Advocate as Special Public Prosecutor as desired by the victims of atrocity.

5. Considered the rival submissions and perused the relevant records. The main ground on which the petitioner apprehends that there was a meeting between the learned Special Public Prosecutor and the accused at the office of the Special Public Prosecutor on 05.04.2022. However, it appears that the petitioner had not produced any material in support of this allegation before this Court or before the 1st respondent. The order of the 1st respondent shows that the petitioner had not put-forth documents in support of his claim for change of Public Prosecutor. It was further found from the perusal of the representation that the allegations made against the Special Public Prosecutor was found baseless. For these reasons, her request for appointment of learned Special Prosecutor was rejected.

6. As rightly pointed out the learned Government Advocate (Crl. Side) that the Rule 4(5) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities Act), 1989 (Amendment Act, 2015) gives only the discretionary power of the District Magistrate. Therefore, this Court finds that the first



W.P.No.505 of 2023

respondent has rightly rejected the petitioner's representation dated 16.09.2022 giving valid reasons and this Court is not inclined to interfere with the said dismissal order and hereby confirms order made in Rc.No.1569/2022/R5 dated 18.11.2022.

7. Accordingly, this Writ Petition is dismissed.

09.01.2023

Index :Yes/No

Internet:Yes/No

Sma

To

1. The District Collector cum District Magistrate,
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Vepery,
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Inspector of Police,
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W.P.No.505 of 2023

5. The Public Prosecutor,
High Court of Madras.

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W.P.No.505 of 2023

G.CHANDRASEKHARAN, J.

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W.P. No. 505 of 2023

09.01.2023