



W.P.No.24767 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.24767 of 2016

and

W.M.P.No.23815 of 2017

Gopalakrishnan

.. Petitioner

Vs

- 1.The Secretary to the Government of Tamil Nadu,
Home Department,
Secretariat, Chennai – 600 009.
- 2.The Director General of Police,
Office of the Director General of Police,
Chief Office, Dr. Radhakrishnan Salai,
Mylapore, Chennai – 600 004.
- 3.The Inspector General of Police,
West Zone, Office of the Inspector General of Police,
Race Course, Coimbatore.
- 4.The Superintendent of Police,
Tiruppur District,
Tiruppur.
- 5.The Deputy Superintendent of Police,
Udumalpet, Tiruppur District.



W.P.No.24767 of 2016

6.The Inspector of Police,
Kudimangalam Police Station,
Tiruppur District.

.. Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the second respondent for further investigation by an independent agency regarding the gruesome murder of the petitioner's father, Murugesan on 26.09.2012 under mysterious circumstances in Crime No.239 of 2012 on the file of the respondent, the Inspector of Police, Kudimangalam Police Station in Tiruppur District wherein the respondents 3 to 6 have not even carried out any enquiry for more than 3 ½ years.

For Petitioner : Mr. M. Purushothaman

For Respondents : Mr. L. Baskaran,
Government Advocate (Crl.Side)

ORDER

This Writ Petition has been filed to direct the second respondent for further investigation by an independent agency regarding the gruesome murder of the petitioner's father, Murugesan on 26.09.2012 in Crime No.239 of 2012 on the file of the sixth respondent.



W.P.No.24767 of 2016

2. The learned counsel for the petitioner submitted that the petitioner is the son of the deceased Murugesan. On 26.09.2012, the petitioner's father Murugesan went to his landlord's land for watering. At about 10.30 pm, one Senthil Kumar, working in the nearby land informed the petitioner that his father was murdered. Immediately, the petitioner along with his relatives went to the field and found the body of his father. Thereafter, the petitioner gave a complaint to the sixth respondent police and on 27.09.2012, the case was registered in Crime No.239 of 2012 for the offence under Section 302 IPC. The police had not taken any action, as early, not investigated the case properly and not identified the accused persons, who committed the crime. Hence, this writ petition has been filed seeking to give direction to the second respondent, Director General of Police, for further investigation by an independent agency.

3. Learned Government Advocate (Crl.Side) for the respondents submitted that the sixth respondent police, at present, closed the case as 'undeducted' since police is not able to identify the accused persons and also filed the closure report before the Court.

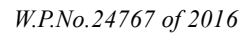


W.P.No.24767 of 2016

WEB COPY

4. I have considered the rival submissions and perused the materials available on record.

5. On perusal of the records, the fact reveals that on 26.09.2012 at about 9.00 pm, the petitioner's father, deceased Murugesan went from his home by his cycle to Kanakkupillai farm, for the purpose of letting water to the field. At about 10.30 pm, on the same day, one Senthil Kumar S/o. Kumarasamy working in the nearby field belonging to Appasamy, informed to the petitioner that his father was murdered by someone and he was succumbed to the injuries. Immediately, the petitioner and his uncle went to the field and thereafter, gave a complaint, which was received by the respondent police and a case in Crime No239/2012 was registered for the offence under Section 302 IPC. Since no action was taken by the police, this writ petition is filed seeking to give direction to the second respondent, directing the second respondent for further investigation by an independent agency with regard to murder of the petitioner's father, Murugesan. Further, the learned Government Advocate submitted that the case has been closed as



6. I have gone through the closure report filed by the respondent police. In the closure report, the police stated that on 09.10.2012, the police recovered his Samsung cell phone and black colour torch light belongs to the deceased, from one witness Lakshmi, a resident of Kottar, Nagerkoil District and seized that articles in the presence of witnesses Bagyadoss and Mohan under mahazar and examined some witnesses and obtained postmortem report and finally concluded that the police not able to find the reason for murder and who committed it. Therefore, closed the case as 'undeducted'. The manner of investigation carried out by the police clearly indicates that the investigation is not proper.

7. The Hon'ble Supreme Court in *Manu Sharma Vs. State (NCT of Delhi)* reported in *(2010) 6 SCC 1*, has elaborately dealt with the requirement of fair investigation and observed as under:-

“...The criminal justice administration system in India places human rights and dignity for human life at a much higher pedestal. In our jurisprudence an accused is



W.P.No.24767 of 2016

WEB COPY

presumed to be innocent till proved guilty, the alleged accused is entitled to fairness and true investigation and fair trial and the prosecution is expected to play balanced role in the trial of a crime. The investigation should be judicious, fair, transparent and expeditious to ensure compliance with the basic rule of law. These are the fundamental canons of our criminal jurisprudence and they are quite in conformity with the constitutional mandate contained in Articles 20 and 21 of the Constitution of India...”

8. The investigation in respect of the case in our hand is not proper and without any acceptable valid reason, it was closed as 'undeducted'. Therefore, the sixth respondent, Inspector of Police cannot be permitted to continue the investigation. Therefore, this Court is inclined to direct the second respondent, Director General of Police, O/o, the Director General of Police, Chief Office, Dr.Radhakrishnan Salai, Mylapore, Chennai-4, to transfer the case to the State CB-CID for further investigation and to complete the investigation, within a period of six months from the date of receipt of copy of this order.



W.P.No.24767 of 2016

9. Accordingly, this Writ Petition is allowed, directing the second respondent, Director General of Police, O/o, the Director General of Police, Chief Office, Dr.Radhakrishnan Salai, Mylapore, Chennai-4, to transfer the case to the State CB-CID for further investigation and to complete the investigation, within a period of six months from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

14.07.2023

Index : Yes / No

Neutral Citation : Yes/ No

AT



WEB COPY



W.P.No.24767 of 2016

V. SIVAGNANAM, J.

AT

To

- 1.The Secretary to the Government of Tamil Nadu,
Home Department, Secretariat, Chennai – 600 009.
- 2.The Director General of Police,
Office of the Director General of Police,
Chief Office, Dr. Radhakrishnan Salai,
Mylapore, Chennai – 600 004.
- 3.The Inspector General of Police,
West Zone, Office of the Inspector General of Police,
Race Course, Coimbatore.
- 4.The Superintendent of Police,
Tiruppur District, Tiruppur.
- 5.The Deputy Superintendent of Police,
Udumalpet, Tiruppur District.
- 6.The Inspector of Police,
Kudimangalam Police Station,
Tiruppur District.
- 7.The Public Prosecutor,
High Court of Madras.

W.P.No.24767 of 2016

14.07.2023