



WEB COPY



W.P.No.18411 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.18411 of 2018 and
WMP.Nos.21734 & 21735 of 2018

Basavaraj

... Petitioner

Vs.

1.The District Collector,
Salem District, Salem

2.The Superintendent of Police,
Krishnagiri District,
Krishnagiri

3.The Inspector of Police,
Berigai Police Station,
Hosur Taluka, Krishnagiri District
(crime No.184 of 2003)

4.R.Arunkumar

5.Ellammal

(R5 suo motu impleaded as per order dated
24.07.2018 in WP.No.18411 of 2018)

... Respondents

PRAYER:

Writ petition is filed under Article 226 of the Constitution of India to
issue a writ of certiorari calling for the records relating to the impugned order
in Na.Ka.No.2560/2017/D5 dated 11.03.2018 on the file of the first respondent



W.P.No.18411 of 2018

and to quash the same as illegal after holding that the Rule 4(5) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 is ultra virus of the main provisions of the Act and also otherwise invalid.

For Petitioner : Mr.K.Sukumaran
for Mr.G.M.Ananthakumar

For Respondents
For R1 to 3 : Mr.L.Baskaran,
Government Advocate (Crl.Side)

For R5 : Mr.V.Ravindran
for M/s.Giridhar & Sai

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 11.03.2018 thereby appointed the fourth respondent as Special Public Prosecutor for SC/ST (POA) in SC.No.95 of 2013 on the file of the Principal District and Sessions Court, Salem.

2. The petitioner is an accused in SC.No.95 of 2013 on the file of the Principal District and Sessions Court, Salem. While pending the trial, the fifth respondent herein submitted petition before the first respondent for appointment of Special Public Prosecutor to conduct the case as per Rule 4(5) of SC&ST(POA) Rules, 1995. The first respondent had appointed the fourth



W.P.No.18411 of 2018

respondent as Special Public Prosecutor to conduct the case in SC.No.95 of

2013 on the file of the Principal District and Sessions Court, Salem.

3. The learned counsel for the petitioner would contend that though in the writ petition, the impugned order is challenged as well as Rule 4(5) of SC&ST(POA) Rules, 1995 as *ultra vires*, he restricted his prayer only to challenge the order passed by the first respondent dated 11.03.2018. He further submitted that as per Rule 4(5) of SC&ST(POA) Rules, 1995, the first respondent cannot appoint a Special Public Prosecutor on his own. As directed by the Hon'ble Division Bench of this Court, a small committee should be formed consisting Principal District Judge of the District concerned and to select lawyer considering the ethical standards to ensure that the said advocate is otherwise not influenced either way while conducting the trial. The said judgment was passed by the Hon'ble Division Bench of this Court on 25.02.2020. Whereas the order impugned in this writ petition was passed by the first respondent as early as on 11.03.2018 itself. That apart, he further submitted that one Ellammal i.e. the fifth respondent submitted application before the first respondent to appoint a Special Public Prosecutor. She is neither victim nor close relative of the deceased. Therefore, she has no locus to ask for appointment of Special Public Prosecutor as contemplated under Rule



W.P.No.18411 of 2018

4(5) of SC&ST(POA) Rules, 1995.

WEB COPY

4. Heard, the learned counsel appearing on either side.

5. On perusal of records, revealed that there are totally 26 accused in which the petitioner is arrayed as 13th accused. They had trespassed into the land of Munikrishnappa with common intention to kill him and also one, Seenan @ Seenappa who belong to scheduled caste community. They were attacked brutally by deadly weapon by the accused and three persons were murdered. On the complaint, the third respondent registered FIR in crime No.184 of 2003 for the offences under Sections 147, 148, 447, 307, 307 r/w 147 IPC, 3(1)(x) of SC/ST Act r/w 149 IPC, 307 IPC r/w 3(2)(v) of SC/ST Act, 302 IPC r/w 34 IPC, 302 IPC r/w 149 of IPC. After completion of investigation, they filed final report and the same has been taken cognizance by the District Court, Krishnagiri. Thereafter, the entire trial was transferred to the file of the Principal District and Sessions Court, Salem and taken cognizance in SC.No.95 of 2013. The petitioner is being accused cannot challenge the appointment of Special Public prosecutor, since he has no locus to challenge the order of the appointment of the Special Public Prosecutor. Though the fifth respondent is not the victim, she is a close relative of the deceased. She is also



W.P.No.18411 of 2018

one of the witnesses to the occurrence. Therefore, she has locus for seeking Special Public Prosecutor to conduct the case. Therefore, this Court finds no infirmity or illegality in the order passed by the first respondent, thereby appointed the fourth respondent as Special Public Prosecutor to conduct the case in SC.No.95 of 2013 on the file of the Principal District and Sessions Court, Salem. As such, the writ petition is devoid of merits and liable to be dismissed.

6. At this juncture, the learned Government Advocate(crl.side) appearing for respondents 1 to 3 also submitted that now new Public Prosecutor has been appointed to conduct cases for victims. However, the fourth respondent has been appointed as Special Public Prosecutor to conduct the trial only in SC.No.95 of 2013. Therefore, he can conduct the trial as Special Public Prosecutor for this case alone.

7. With the above observations, this writ petition is dismissed. The trial court is directed to complete the trial in SC.No.95 of 2013 within a period of three months from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed.



W.P.No.18411 of 2018

17.10.2023

WEB COPY

Index : Yes/No

Internet : Yes/No

Speaking order/non-speaking order
lok

To

- 1.The District Collector,
Salem District, Salem
- 2.The Superintendent of Police,
Krishnagiri District,
Krishnagiri
- 3.The Inspector of Police,



W.P.No.18411 of 2018

Berigai Police Station,
Hosur Taluka, Krishnagiri District
4. The Government Advocate,
High Court of Madras

WEB COPY

G.K.ILANTHIRAIYAN, J.

lok



WEB COPY



W.P.No.18411 of 2018

W.P.No.18411 of 2018

17.10.2023