



W.P.No.20687 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

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K. Kesavan

.. Petitioner

Versus

1. The Inspector of Police,
Muthialpet Police Station,
Flower Bazaar, Chennai-600 001.
 2. The Principal,
St.Gabriel Higher Secondary School,
28, Broad way, Chennai-600108.
 3. The Government Stanley Hospital,
Represented by its Dean having address at
Old Jail Road,
Chennai-600 001.
- ..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to (1) direct the 1st respondent to conduct a proper and true enquiry and investigate into the untimely death of the petitioner's son A.K.Gangadharan on 27.06.2023 at the school premises of the 2nd respondent in respect of which the Cr.No: 105 of 2023 dated 27.06.2023 has been registered. (2) direct the 1st respondent to seize the data



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from all the CCTV cameras installed within the premises of the 2nd Respondent on the fateful day and produce before this Court and (3) also direct the 2nd respondent to cooperate with any enquiry regarding the death of the ward A.K.Gangadharan and (4) further direct the 3rd respondent to forth with release the post mortem report of the child Gangadharan who died on 27.06.2023 to the petitioner.

For Petitioner : M/s.Ambili Menon.P

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor,
for R1

ORDER

This Writ Petition has been filed seeking for transfer of investigation pending on the file of the first respondent in Crime No.105 of 2023 to some other investigation agency.

2. This is a case where the petitioner has lost his son aged about 15 years. The son of the petitioner was studying in the 10th standard at St.Gabriel Higher Secondary School, Broadway, Chennai. He went to the School on 27.06.2023 and the petitioner received a news that his son collapsed and he has been taken to the Stanley Hospital. According to the petitioner, he reached the hospital around 9.50 A.M and by then both his



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daughters had also reached that place. The petitioner was not given any information regarding the incident and the petitioner was not even aware as to what action is being taken by the Police and ultimately, the petitioner got the news that his son died.

3. The petitioner being the father of the deceased, naturally, was very anxious to know as to what was the real cause of the death of his son. This doubt was entertained by the petitioner since his son was not suffering from any illness and was keeping good health till the previous day and all of a sudden, the petitioner was informed about the demise of his son. The petitioner was not satisfied with the explanation given as if his son fell down in the School and collapsed and later died. According to the petitioner, there is a grave suspicion behind the demise of his son. Since the petitioner was not satisfied in the manner in which the investigation was going on, the present Writ Petition came to be filed before this Court seeking for transfer of investigation.

4. When the matter came up for hearing on 12.07.2023, this court directed the first respondent to file the status report and also to produce the



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Case Diary before the Court. Accordingly, a status report was filed by the first respondent on 26.07.2023. For proper appreciation, relevant portions in the status report are extracted hereunder :-

"2. *I respectfully submit that on 27.06.2023 at about 01.00 pm, the Petitioner gave complaint before N3 Muthialpet Police Station (1st Respondent herein) and the complaint reveals that on 27.06.2023 at about 8.55 A.M., the Petitioner's son namely Gangadharan aged about 15 years studying in 10th standard at St.Gabriel School got unconscious in school and was admitted in Stanley hospital, thereafter the doctors attached to the Stanley hospital who is the 3rd Respondent herein intimated to the Petitioner that his son who was in treatment got dead. So he seek to conduct post mortem on his son's body and give the body to him for performing his final rituals.*

3. *It is submitted that immediately after receiving the complaint, the Sub Inspector attached to the 1st Respondent namely Tr. N. Vinoth Kumar registered an FIR vide Cr. No.105 of 2023 u/s 174 of Crpc.*

4. *It is submitted that prior to receiving of complaint from the Petitioner on 27.06.2023 at about 01.00 pm, the following details regarding this case is tabulated below.*

S. No	Date	Time	Contents
1	27.06.2023	8.57 am	Tr. Gangadharan Deceased fell unconscious in the verandah of 2nd floor of St. Gabriel School



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			<i>while he was on the way to his classroom. While he fell down on the verandah, he got injured on the left side of the forehead. (The information reveals in the enquiry)</i>
2	27.06.2023	09.07 am	<i>Deceased was taken to Stanley Hospital for treatment. (The information reveals in the enquiry)</i>
3	27.06.2023	09.20 am	<i>Accident Register (1973392) entry was made in Stanley Hospital. AR entry revealed that Deceased was unconscious</i>
4	27.06.2023	09.50 am	<i>Stanley Hospital Accident Register (1973392) intimation was given to N3 Muthialpet Police Station. Immediately N3 Muthialpet Police rushed to hospital for enquiry</i>
5	27.06.2023	12.45 pm	<i>Death intimation message of Deceased was given to N3 Muthialpet Police Station by Stanley Hospital</i>
6.	27-06-2023	01.00 pm	<i>The Petitioner given complaint to N3 Muthialpet Police Station</i>

5. I respectfully submit that, thereafter the investigating officer of this case conducted a detailed enquiry and recorded all the witnesses statements including petitioner on 27.06.2023. I further submit that all the CCTV footage in the 2nd Respondent are inspected and DVR is taken



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into custody. I submit that during the course of investigation, the investigating officer went to the place of occurrence, prepared rough sketch and observation mahazar in the presence of witnesses by name, Suresh and Aani florance and also examined the following statements and recorded:

S. No	Witnesses Name	Particulars of Witnesses
1	Kesavan	Complainant
2	S.Vinarasi	Eye Witness to Incident (Assistant Head Master Attached to the St.Gabriel Higher Secondary School)
3	Thirumal	Eye Witness to Incident (Attached to the St.Gabriel Higher Secondary School)
4	Sebastian Dhana Kumar	Eye Witness to Incident (Attached to the St.Gabriel Higher Secondary School)
5	K.Vinarasi	Eye Witness to Incident (Attached to the St.Gabriel Higher Secondary School)
6	Princy	Eye Witness to Incident (Attached to the St.Gabriel Higher Secondary School)
7	Fr. Sagayaraj	Other Witnesses (Attached to the St.Gabriel Higher Secondary School)

6. It is submitted that the investigating officer conducted inquest proceeding on the dead body at Stanley Hospital Mortuary in front of the Panchayatars and the Post Mortem was conducted on 27.06.2023 between 03.00 pm and 04.20 pm and thereafter the body was handed over to the Petitioner.



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7. It is submitted that based on the enquiry made it came to know that the deceased Tr. Gangadharan fell unconscious on the 2nd floor verandah due to which he got an injury on the left side of the forehead. First aid was given to him by the teachers of St. Gabriel School and then was taken to Stanley Hospital while he was still unconscious. Treatment was given to him, however he didn't respond to treatment and died subsequently.

8. It is submitted that on 19.07.2023, I received Post Mortem Report from the 3rd Respondent and the case of death is mentioned as follows: "ON PERUSAL OF POST MORTEM EXAMINATION FINDINGS, VISCERAL CHEMICAL ANALYSIS REPORT, HISTOPATHOLOGICAL EXAMINATION REPORT, BLOOD CULTURE REPORT, PERITONEAL FLUID ANALYSIS REPORT AND BIOCHEMICAL ANALYSIS REPORTS, WE ARE OF THE OPINION THAT THE DECEASED WOULD APPEAR TO HAVE DIED DUE TO PNEUMONIA WITH SEPSIS".

9. It is further submitted that myself was very much available on duty 27.06.2023 and I was very well enquiring the case and interacting with the petitioner and other respondents of this case both at Stanley Hospital and Place of Occurrence but the Petitioner purposefully stated before this Hon'ble court that the Petitioner got intimation from the 1st Respondent police station that myself was on leave which is not true. The Petitioner has not made any suspicious about the death of his son in the complaint and the petitioner made several vague allegations against me without any valid reason and the reasons best known to him before



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this Hon'ble Court. It is submitted that on 06.07.2023 the Petitioner along with political party conducted demonstration against the 2nd Respondent and in front of the 2nd Respondent School without any prior permission from the concerned authorities. Later they were advised and dispersed and further submitted we have shown the CCTV Footages to the petitioner and his family members in respect of the occurrence."

5. The copy of the status report was also furnished to the learned Counsel for the petitioner. On going through the status report, the petitioner has filed a statement of objection by pointing out to certain infirmities in the status report.

6. When the matter is taken up for hearing today, Mr.N.Vinoth Kumar, Sub-Inspector of Police from the first respondent Police Station is present before the Court with the Case Diary. This Court carefully went through the Case Diary.

7. On going through the Case Diary, it is seen that on 27.06.2023 at about 9.00 A.M, the deceased is said to have fallen down in the School and he was brought to the Stanley Hospital around 9.20 A.M unconscious. Thereafter, the death intimation was given to the respondent Police on the



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same day at about 11.45 P.M. The Post Mortem Certificate that is available in the Case Diary reveals the following injury:-

"EXTERNAL INJURIES: *The following ante-mortem injuries were note;*
1. Vertical laceration of size 1 x 0.5 x 0.5 cm noted on the left side of the forehead, 3 cms above left eyebrow and 2.5 cm lateral to midline.
No other external ante-mortem injuries noted anywhere on the body."

8. The final opinion for the cause of death was reserved awaiting the Viscera Report and histopathological examination of tissue samples. Ultimately, on receiving the scientific report, a final opinion has been given to the effect that the deceased would appear to have died due to pneumonia with sepsis.

9. It is also seen from the Case Diary that witnesses have been examined and materials have been collected including the C.C.T.V footage from the scene of occurrence. It is stated that the investigation will be completed shortly and a Final Report will be filed.

10. This Court, on carefully going through the Case Diary is not able to find any apparent illegality in the investigation conducted. The most



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crucial issue that requires consideration is as to what is the real cause for the death of the son of the petitioner. The son of the petitioner is said to be healthy and was not facing any health issues and all of a sudden, the father is told that the son collapsed in the School and fell down. The injury that has been detected during the Post Mortem is giving the father an impression that the story of the prosecution is not believable from the standpoint of view of a prudent man. The other reason as to why the father is not satisfied with the investigation is that the reason that has been assigned as the cause of death namely pneumonia with sepsis.

11. It is now a settled law that this Court exercising its jurisdiction under Article 226 of the Constitution of India cannot really get into the nitty gritty of the investigation conducted by the prosecution and this Court must only see if there is any apparent illegality or slipshod investigation conducted by the Police. At the stage of investigation, the Courts do not poke their nose since it is an area which is exclusively within the domain of the Police. However, in some cases, the Court has to balance the rights and this is more so in cases where a parent loses a young child and they are not



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able to really comprehend as to what is the real cause of the death of their child.

12. In view of the above, even though under normal circumstances, this Court would not have ordered for transfer of investigation, this Court wants the petitioner, namely the father of the deceased child, to repose confidence on the investigation going on around the suspicious death of his child. In order to give that confidence to the petitioner, this Court is inclined to direct the first respondent to hand over the entire Case Diary to the Assistant Commissioner of Police, Harbour range, Flower Bazaar district. The Assistant Commissioner, on receipt of the Case Diary, shall independently do his investigation and shall ensure that no stone remains unturned. In a case of this nature, no one should get an impression that the investigation went in favour of a particular party to the detriment of another. This shall be ensured by the Assistant Commissioner of Police. On completion of the investigation, the Assistant Commissioner of Police, Harbour range, Flower Bazaar district shall file the Final Report before the concerned jurisdictional Court within a period of three months from the date of receipt of copy of this order.



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13. This Writ Petition is disposed off with the above directions. No costs.

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

1. The Assistant Commissioner of Police,
Harbour Range, Flower Bazaar District.
2. The Inspector of Police,
Muthialpet Police station,
Flower Bazaar, Chennai-600001.
3. The Government Stanley Hospital,
Represented by its Dean having address at
Old Jail Road,
Chennai – 600001.
4. The Public Prosecutor,
High Court of Madras.



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N.ANAND VENKATESH, J.
grs

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