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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.469 of 2024
and WMP Nos.492, 495 and 489 of 2024

M.Mariappan

... Petitioner

Vs.

1.The Director General of Police,
Office of the Director General of Police,
Chennai.

2.The Superintendent of Police,
Erode District, Erode.

3.The Inspector of Police,
Chennaiimalai Police Station,
Erode District.

4.The Inspector of Police,
CBCID,
Erode District.

...Respondents

PRAYER : Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents herein to take necessary action on my complaint dated 03.01.2024 in accordance with law and as per dictum laid down by the Hon'ble Supreme Court in Lalitha Kumari vs. Government of Uttar Pradesh.



For Petitioner : Mr.V.Maharajan
For Respondents : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This writ petition was moved as a lunch motion on 05.01.2024 on the ground that the brother of the petitioner viz., Bala @ Balakrishnan was indiscriminately attacked by the police and as a result, he died and in spite of the same, all steps are being taken to destroy the evidence and to conduct the postmortem in a hasty manner to give clean chit to the police.

2.When the matter came up hearing, this Court directed the learned Additional Public Prosecutor to take instructions and to ask the 2nd respondent to file a status report in this case. The matter was taken up for hearing today.

3.The case of the petitioner is that his younger brother Bala @ Balakrishnan was brutally attacked by the police after he was taken into illegal custody and as a result, he died. While so, steps were taken to cover up the brutality exerted by the police on the petitioner's brother and to destroy all the evidence. That apart, steps were also taken to conduct the postmortem in a hasty manner. Hence, the present writ



petition was filed before this Court for a direction to the respondents to act upon the complaint given by the petitioner on 03.01.2024 in accordance with law.

4.The 2nd respondent has filed a status report along with typed set of papers. On carefully going through the status report, it is seen that the deceased Balakrishnan was involved in some criminal cases and he was being searched by the police. Ultimately, the deceased was found along with his friend consuming alcohol in a TASMAL shop. Since the deceased Balakrishnan was in an inebriated condition, no enquiry was done and his friend was asked to produced the said Balakrishnan before the Station House Officer, Chennimalai Police Station. On 28.12.2023, the friend of the deceased namely Prakash reported that the deceased was admitted at Arulmohan Hospital, Chennimalai for nausea and vomiting. He was taking treatment on 28th and 29th of December 2023. Since the health condition did not improve, he was referred to the Government Erode Medical College Hospital, Perundurai for treatment. An Accident Register was also prepared on 29.12.2023 and it was sent to the Chennimalai Police Station. The Accident Register revealed the condition of the deceased. Ultimately, on 02.01.2024, the deceased died and it was treated as non-medico legal case (NMLC). According to the police, the deceased had died only due to natural causes and not due to any violence perpetrated on the deceased.



5. It is further stated in the report that the complaint was given to the effect that the deceased had died in a suspicious manner while he was in police custody. Acting upon the same, an FIR came to be registered at Chennimalai Police Station in Crime No.8 of 2024 under Section 176(1)(A) of Cr.P.C. The FIR was also forwarded to the learned Judicial Magistrate viz., the Fast Track Court, Erode for conducting the judicial enquiry. That apart, the investigation has been handed over to the Deputy Superintendent of Police, District Crime Branch, Erode through proceedings dated 05.01.2024. The report also gives the list of criminal cases pending against the deceased. The 2nd respondent has taken a very clear stand that the deceased was not subjected to any physical or mental torture as claimed by the petitioner and therefore, there is no ground to take any action against the police.

6. The learned counsel for the petitioner submitted that the deceased was attacked indiscriminately by the police and he has sustained injuries all over the body which is evident from photographs possessed by the petitioner. The learned counsel submitted that the petitioner does not have the confidence in the postmortem being conducted by the Government Erode Medical College Hospital. The learned counsel therefore requested this Court to ensure that a fair enquiry/investigation is done in this case.



7. The learned Additional Public Prosecutor in reply submitted that the deceased did not die due to any physical or mental torture exerted by the police and it was a natural death. That apart, the respondent police is willing to ensure that a fair enquiry is done in this case subject to the conditions imposed by this Court.

8. Considering the facts and circumstances of the case and the nature of allegations that have been made, it must be ensured that the cause of death of the deceased must be first ascertained. Since there is some apprehension in the postmortem being conducted by the Government Erode Medical College Hospital in view of nature of Accident Register that was furnished by the hospital, this Court is inclined to direct the postmortem to be conducted in a different Government Hospital. Presently, the dead body has been kept in the mortuary at Government Erode Medical College Hospital, Perundurai. The dead body shall be immediately moved by ambulance to the Medical College Hospital at Coimbatore. The postmortem shall be conducted by the Doctors at the Medical College Hospital, Coimbatore in the presence of the Dean. The entire postmortem shall be videographed and it shall form part of the records. The petitioner apprehends that the CCTV footages are attempted to be destroyed. However, the 2nd respondent in the



status report has made it clear that all efforts are being taken to preserve the CCTV footages.

9. Since the FIR has been registered in Crime No.8 of 2023 for the offence under Section 176(1)(A) of Cr.P.C., this Court expects the investigation to be done in line with the guidelines issued by this Court in *P.Pugalenthai vs. State Rep. by the Director General of Police, Mylapore, Chennai & Others* reported in *2015 1 MLJ Crl 424* which was subsequently followed in *Krishnamoorthy vs. State Rep. by the Inspector of Police, Kallikudi Police Station, Madurai* reported in *2020 1 LW Crl. 358*. Once the investigation is conducted as per the guidelines, it will result in a fair investigation and the truth will get revealed.

10. This writ petition is disposed of with the above directions. Consequently, connected miscellaneous petitions are closed. No Costs.

08.01.2024

Index : Yes/No

Internet : Yes/No

Speaking/Non-Speaking Order

SSR

Note: Issue Order Copy on 08.01.2024



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N.ANAND VENKATESH, J

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