



IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 05.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.2456 of 2024

Vembu

... Petitioner

Vs.

- 1.The Home Secretary,
State of Tamil Nadu,
Secretariat,
Chennai.
- 2.The Director General of Police,
Mylapore,
Chennai – 04.
- 3.The Superintendent of Police,
Nagapattinam District,
Nagapattinam.
- 4.The District Collector,
Nagapattinam District,
Nagapattinam.
- 5.The Inspector of Police,
Velankanni Police Station,
Nagapattinam District,
Nagapattinam.
- 6.Sathiya

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus, directing the 3rd respondent to debut an officer not below the rank of Inspector of Police to conduct de nova investigation and file a necessary charge sheet in the above case in Crime No.34 of 2019 on the file of the 5th respondent pursuant to the petitioner's representation dated 07.08.2023.

For Petitioner : Mr.K.Thenrajan
For Respondents : Mr.A.Damodaran
Additional Public Prosecutor
for R1 to R5

ORDER

This writ petition has been filed for issue of writ of mandamus seeking for *de nova* investigation in Crime No.34 of 2019.

2.When the matter was taken up for hearing, the learned Additional Public Prosecutor brought to the notice of this Court that the investigation was completed and the case is now pending before the Sub Court, Nagapattinam (holding the jurisdiction of an Assistant Sessions Court) in S.C.No.72 of 2022. The learned Additional Public Prosecutor further submitted that the trial has already commenced and that PW1 has already been examined and the case is now posted for examination of LW4 to LW6 on 12.02.2024.



3. In the considered view of this Court, this Court ordering for *de nova* investigation can happen only in the rarest of rare case. Such orders cannot be passed as a matter of routine. According to the petitioner, this is a case of murder and it has been projected as if the deceased had committed suicide. The fact as to whether there is a murder or a suicide, will come to surface during the course of trial on examination of witnesses. If ultimately, the Court below comes to a conclusion that there is a serious offence involved, the Court can always alter the charges under Section 216 (1) of Cr.P.C. If after alteration of charges, the case is exclusively triable by the Court of Sessions, the case can also be made over to the concerned Court. Hence, depending upon the development in the trial, an appropriate decision can be taken by the trial Court. This case does not warrant a *de nova* investigation.

4. This writ petition is disposed of in the above terms. No Costs.

05.02.2024

Index : Yes/No

Internet : Yes/No

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To

1. The Home Secretary,
State of Tamil Nadu,
Secretariat, Chennai.

<https://www.mhc.tn.gov.in/judis>



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N. ANAND VENKATESH, J.

SSI

- 2.The Director General of Police,
Mylapore, Chennai – 04.
- 3.The Superintendent of Police,
Nagapattinam District,
Nagapattinam.
- 4.The District Collector,
Nagapattinam District,
Nagapattinam.
- 5.The Inspector of Police,
Velankanni Police Station,
Nagapattinam District,
Nagapattinam.
- 6.The Public Prosecutor,
High Court, Madras.

W.P.No.2456 of 2024

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