



WEB COPY



W.P. No. 24612 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. No.24612 of 2024

G.Thiruvenkadasamy

... Petitioner

Vs.

1. The Home Secretary
The Office of Home Secretary,
The Secretariat, St.George Fort,
Chennai-600 009.

2. The District Collector,
Tiruppur District,
Tiruppur.

3. The Inspector of Police,
Dharapuram Police Station,
Tiruppur District.
(Cr.No.461 of 2023)

... Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, for the issuance of Writ of Mandamus, directing the respondents 1 and 2 to appoint Mr.B.Kalaizhezhiyan, Advocate (Ms.872/1997) as Special Public Prosecutor for conducting the prosecution in S.C.No.102 of 2024 on the file of learned Assistant Sessions Court/ Sub Judge, Dharapuram by considering petitioner representation dated 05.04.2024 and by appreciating the above stated facts.



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For Petitioner : Mr.N.Ponraj

For Respondents : Mr. S. Udaya Kumar,
Government Advocate (Crl.Side)

ORDER

Alleging that the learned Public Prosecutor is one Junior of Selvaraj and another Junior of Selvaraj has appeared on behalf of the accused for return of vehicle, the present writ petition is filed to permit the petitioner herein (defecto complainant) to engage one Kalai Selvan as Special Public Prosecutor to conduct S.C.No.102 of 2024.

2. The Code of Criminal Procedure as well as the new BNSS Act does not provide for any right to the defacto complainant to engage counsel of his choice to conduct criminal trial under the Act, criminal trial has to be conducted by prosecutors appointed by the State. If the complainant is of the view that he wants to engage a counsel to assist the prosecution, he should take out an application to that effect and it is the discretion of the learned Magistrate/trial court to entertain such application and permit the complainant to assist the prosecution if necessary.

3. There is no provision under law to appoint the Special Public



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Prosecutor of the choice of the defacto complainant. Further the reasons stated to change the present Public Prosecutor and to appoint Public Prosecutor's choice also does not appear to be reasonable.

4. Baseless suspicion that the Senior to the Public Prosecutor appearing on behalf of the accused in an interlocutory application for returning of vehicle will not throw any doubt about the integrity of the Public Prosecutor appointed by the State. Hence, this Writ Petition stands dismissed. No order as to costs.

27.08.2024

Vv

To

1. The Home Secretary
The Office of Home Secretary,
The Secretariat, St.George Fort,
Chennai-600 009.
2. The District Collector,
Tiruppur District,
Tiruppur.
3. The Inspector of Police,
Dharapuram Police Station,
Tiruppur District.

Dr.G.JAYACHANDRAN,J.



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