



W.P.No.27266 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

WEB COPY

Reserved on : 24.10.2024

Pronounced on: 29.10.2024

**CORAM**

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

W.P.No.27266 of 2024

M.Mariappan.

... Petitioner

**/versus/**

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,  
Chennimalai Police Station,  
Erode District.

4. The Inspector of Police,  
Crime Branch Crime Investigation Department,  
(CBCID),  
Erode District.

... Respondents

**PRAYER:** Writ Petition has been filed under Article 226 of Constitution of India, pleased to issue Writ of Mandamus directing the 1<sup>st</sup> respondent to withdraw the investigation pertains to the Crime No.08 of 2024 on the file of the 3<sup>rd</sup> respondent and transfer the same to some other Investigation Agency.



W.P.No.27266 of 2024

For Petitioner : Mr.S.Seenuvasan

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

\*\*\*

### **ORDER**

The petitioner herein is the brother of one Balakrishnan. Based on the information given by his Advocate, he gave a complaint on 05/01/2024 in Crime No.8 of 2024 to the 3<sup>rd</sup> respondent police, alleging that the death of his brother was due to the custodial torture of the Superintendent of Police, Erode and Deputy Superintendent of Police, Perundurai.

2. In the complaint, the Writ Petitioner has stated that, his brother Balakrishnan is accused in few cases which are under investigation. While so, on 26/12/2023 his brother along with his friends went in a Scorpio car to Erode. On 02/01/2024 at about 08.40 a.m one Bala @ Balakrishnan, Advocate of his brother informed the petitioner that his brother was done to death by the police and his body is in IRT Hosptial, Perundurai. He went to the hospital and saw his brother in the mortuary with multiple injuries over his body and blood strains in his lungi. On enquiry with his friends, the petitioner came to know that on 27/12/2023 when his brother along with his friends consuming liquor in



W.P.No.27266 of 2024

the TASMAC Bar No:3497, Erode, Palayapalayam at about 2.30 p.m, the Special Team headed by Mr.Jawahar, Superintendent of Police, Erode and the Special team headed by Deputy Superintendent of Police, Perundurai consisting of about 10 policemen took his brother Balakrishnan, Prakash, Bharathi and few others to unknown place and after one day they left others except his brother and Prakash. They both were beaten brutally. When his brother fell down unconscious due to the gruesome attack, the police threatened Prakash and made him to admit his brother on 29/12/2023 at about 7.00 p.m in the IRT Perundurai, Hospital with false information that, he fell down and lost his conscious after consuming liquor. His brother died on 02/01/2024 at 03.35 a.m and same was not informed to the family.

3. On 05.01.2024, the petitioner filed W.P.No.469/2024 before this Court alleging that, his above complaint was not acted upon by the police and they are trying to destroy the evidence by conducting post-mortem hastily. This Court, on considering the seriousness of the allegation sought status report on the same day from the Chennimalai Police. The status report of the police revealed that Balakrishnan, the brother of the petitioner involved in criminal cases and a wanted accused. On 27.12.2023, Balakrishnan was found in the TASMAC Bar in inebriated condition and was not in fit condition for enquiry.



W.P.No.27266 of 2024

Therefore, he and his friends were asked to report before the Station House Officer on the next day i.e., 28/12/2023. The next day, Prakash alone came to the Police station and informed that Balakrishnan is admitted at Arulmohan Hospital, Chennimalai for nausea and vomiting. Later, police came to know that Balakrishnan health did not improve, so he was taken to Erode Medical College Hosptial, Perundurai. The said Balakrishnan died on 02/01/2024. The death was natural and not due to any violence perpetrated on Balakrishnan. To substantiate the above said conclusion, the Accident Register issued by the hospital was relied.

4. Though, police claimed that Balakrishnan died naturally, this Court taking note of the fact that the petitioner has suspicion over his brother's death, the investigation of his complaint in Crime No.08/2024 registered for suspicious death was handed over to Deputy Superintendent of Police, District Crime Branch, Erode and Judicial enquiry by the Magistrate was ordered, to ascertain the cause of death. Also, this Court directed the autopsy of the dead body to be done by a team of Doctors at Government Hospital, Coimbatore in the presence of the Dean and the entire post-mortem to be videographed and shall form part of the records.



W.P.No.27266 of 2024

5. Regarding the apprehension expressed by the petitioner that, police are attempting to destroy the CCTV footage, this Court recorded the undertaking given by the Superintendent of Police, Erode that all efforts are being taken to preserve the CCTV footage. Further, placed on record its expectation that the investigation in Crime No.08/2024 to be done in line with the guidelines issued by the High Court in ***P.Pugalendthi -vs- State Rep. By the Director General of Police, Mylapore, Chennai and 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.***

6. The writ petitioner, after narrating the sequence of events as above, claims that while conducting post-mortem, the doctors found several injuries on the body of the deceased Balakrishnan. However, when he asked for copy of the post-mortem report, he was denied a copy. The investigation by the 3<sup>rd</sup> respondent is not done fairly. All attempts made to tamper the evidence to safeguard the subordinates. The complaint of brutal murder been given a different shade to dilute the seriousness and attempts are made to close the complaint. Hence, pray for transfer of investigation to some other investigation agency.



W.P.No.27266 of 2024

WEB COPY

7. The 3<sup>rd</sup> Respondent/Inspector of Police, Chennimalai Police Station, Erode District in his counter had stated that, Balakrishnan who was involved in 10 criminal cases investigated by police of three Districts viz., Thoothukudi District, Coimbatore and Thirunelveli District was seen near Palayapalayam, Erode, consuming alcohol at TASMAC Bar. Since he was highly intoxicated, police were not able to enquire him. Hence, his friend Prakash who was sober was asked to produce Balakrishnan on the next day before Station House Officer, Chennimalai Police Station. Next day Prakash came and informed that Balakrishnan was admitted in Arulmohan Hospital, Chennimalai for vomiting and nausea. After two days of treatment, he was referred to Government Medical College Hospital Erode on 29/12/2023. The Duty Medical Officer who admitted him had mentioned in the Accident Register that patient admitted with history of altered sensorium due to alcoholic intoxication, there is no external injuries found and he was advised to take treatment as inpatient. He was under treatment in ventilated condition for three days and lost his breath on 02/01/2024. Though it was non-medico legal case (NMLC), as directed by the High Court in W.P.No.27266/2024 vide order dated 05/01/2024, the autopsy was conducted at Government Medical College Hospital, Coimbatore and the Judicial Enquiry was also conducted. The injuries



W.P.No.27266 of 2024

found on the deceased body were not caused by beating. The death of

Balakrishnan was due to **‘PULMONARY EDEMA CAUSED BY CORONARY ARTERY DISEASE, VALVULAR HEART DISEASE ACUTE ON CHRONIC LUNG INFECTION precipitation and aspiration associated with CEREBRA VASCULAR INFARCTION.’**

8. The allegation that the deceased Balakrishnan was taken from TASMAC shop on 27/12/2023 to unknown place along with Prakash and beaten brutally denied as false. The allegation that Prakash was threatened to give false information in hospital and the police did not inform the family of the deceased been denied. On completion of investigation, Investigating Officer had concluded that the death of Balakrishnan was natural and not a custodial death. Therefore, alteration report altering the provision from Section 176 (1-A) (1) to 174 Cr.P.C was submitted to the Court along with the final report on 18/09/2024. The petitioner who is the First Informant was intimated in writing on 07/09/2024 about the alteration of the report. The RCS regarding the closure of the case was served on the petitioner on 12/09/2024. The final report uploaded online on 17/09/2024.



W.P.No.27266 of 2024

**9.** The Learned Government Advocate (Crl.Side) for the

respondents produced the CD file to show that the police had done the investigation fairly and without any bias. The extensive perusal of the CD file reveals that, the brother of the petitioner, was a wanted accused in multiple cases and the police was in search of him. On 27/12/2023, the police found him in the Bar in inebriated state. They have asked his friend Prakash to bring him to the police station on the next day for investigation. On the next day, Balakrishnan was admitted at Arulmohan Hospital by Prakash. The Doctor Arulmohan in his statement to the police had stated that, on 28/12/2023 Balakrishnan came to his hospital in intoxicated state accompanied by a friend. He complained vomiting and giddiness. He was treated as outpatient. Again on 29/12/2023 Balakrishnan came along with his friend complaining the giddiness and vomiting still persisting and he could not take food. He advised Balakrishnan to go to Government Hospital for better treatment.

**10.** The statement of Prakash who was with Balakrishnan till his death, reveals that on 27/12/2023, he and his friends joined Balakrishnan for drink at TASMACH Bar. At that time, the Police came to the TASMACH shop and took them all in a van to the police station for enquiry. Since Balakrishnan was under the influence of liquor and continuously vomiting in the van itself, the



W.P.No.27266 of 2024

police dropped them near Chennimalai and asked them to come on the next day.

Balakrishnan was continuously vomiting during the whole night so he first took him to a private hospital and then to Government Hospital. Yet another witness by name, Prasanth Kumar also corroborates the fact that Balakrishnan was continuously drinking without taking food.

**11.** The Accident report indicates that Balakrishnan was taken to the Government Medical College Hospital, Perundurai by Prakash (friend) on 29/12/2023. He was admitted for suspected alcoholic intoxication. He was found drowsy. No external injury noted. However, the Judicial Magistrate while forwarding the body for post-mortem had noted the following injuries on the body:-

- 1. Left upper cheek 4 x 3 cm Abrasion.*
- 2. Left lower Arm 10 x 4 cm Abrasion.*
- 3. Abrasion 4 x 0.5cm on left upper fore arm.*
- 4. Laceration 3.5 x 0.5 on right palm in its second web space.*
- 5. Abrasion 1 x 0.25 on left lower side hip region.*
- 6. Reddish discoloration noted on the centre of the right sole.*
- 7. Discoloration 18 x 1.5 cm noted on back of right upper chest.*
- 8. Discloration 15x 1.5cm noted on back of left upper chest.*
- 9. Abrasion 1 x 0.5cm noted on right upper leg.*



W.P.No.27266 of 2024

**12.** The post-mortem done on 09/01/2024 by team of three doctors

and videographed as per the direction of the High Court in W.P.No.469/2024, dated 08/01/2024. The team of doctors in their report had recorded the following ante mortem injuries:-

1. Abrasion with brown scab of size 4 x 3 cm noted over left upper cheek, graze abrasion with brown scab of size 10 x {4-2} cm noted over back of left lower arm, scratch abrasion with brown scab of size 4 x 0.5 cm noted over left hip region, pressure abrasion with brown scab of size 18 x 1.5 cm noted over back of right upper chest, pressure abrasion with brown scab of size 15 x 1.5 cm noted over back of left chest, pressure abrasion with brown scab of size 1 x 0.5cm noted over outer aspect of right upper leg.

2. Laceration of size 1.5x0.5 x0.5 cm noted over palmar aspect of right second web space with marginal abrasion covered with brown scab.

3. No internal injury over head, neck, chest and abdomen.

4. These injuries are not sufficient to cause death.

**13.** The final opinion says, considering the treatment history, post mortem findings, chemical analysis and the histopathological examination reports, the death is due to '**Pulmonary Edema caused by coronary artery**



W.P.No.27266 of 2024

**disease, valvular heart disease, acute on chronic lung infection precipitation by aspiration and associated with cerebra vascular infarction.'**

**14.** Thus, the reading of the post mortem report along with final report which contains the treatment history, it is abundantly clear that Balakrishnan was admitted in the Government Hospital, Perundurai on 29/12/2023 with history of altered sensorium following alcohol consumption for past 3 days. CT BRAIN showed Hypodensity in right posterior occipital, parasagittal region and left cerebellar hemisphere, suggestive of acute infarct. CT CHEST showed patchy air space opacity in right lower lobe with fibrotic strands, suggestive of acute on chronic infective changes. ECHO done on 01/01/2024 showed non dilated left ventricle with moderate to severe left ventricular dysfunction. Patient was clinically diagnosed as ACUTE CEREBROVASCULAR ACCIDENT-CEREBELLAR INFARCT/ ASPIRATION PHENUMONIA/DILATED CARDIOMYOPATHY/ WERNICKE'S ENCEPHALOPATHY.

**15.** The records clearly show that Balakrishnan had ante-mortem



W.P.No.27266 of 2024

external injuries. The Doctor who recorded the Accident Register on 29/12/2023 when Balakrishnan got admitted at Government Hospital, Perungudi, failed to note the external injuries and had recorded in the Accident Register that no external injury found. The Accident Register was recorded when the patient was brought by his friend Prakash and was in drowsy state. His friend had reported to the doctor that 2 episode of vomiting for 2 days. By oversight, the doctor had not noted the external injuries since they were simple in nature. The post-mortem team had opined that the injuries found in the body is not the cause of death. The post-mortem report categorically says the deceased had medical history of moderate to severe left ventricular dysfunction and acute cerebellar infarct. That apart, the inquest report of the Judicial Magistrate also had ruled out custodial torture and concluded the death of Balakrishnan as natural.

16. In the above said facts and circumstances unravelled from the case material, the suspicion of the petitioner based on hearsay is not supported by the medical evidence as well as ocular evidence. Hence, it does not deserve any consideration.

17. As a result, this *Writ Petition No.27266 of 2024 stands*



W.P.No.27266 of 2024

***dismissed.*** No costs.

WEB COPY

**29.10.2024**

Index :Yes.  
Internet :Yes.  
Speaking Order/Non-Speaking Order  
bsm

To,

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, Chennimalai Police Station, Erode District.
4. The Inspector of Police, Crime Branch Crime Investigation Department, (CBCID), Erode District.
5. The Public Prosecutor, High Court, Madras.



WEB COPY



W.P.No.27266 of 2024

**Dr.G.JAYACHANDRAN,J.**

bsm

**W.P.No.27266 of 2024**

**29.10.2024**