



W.P(MD)No.182 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

W.P(MD)No.182 of 2024

Latha

... Petitioner

Vs.

- 1.State of Tamil Nadu,
Rep. by Home Secretary,
St. George Fort,
Chennai – 600 009.
- 2.The District Collector,
Tiruchirappalli District,
Trichy.
- 3.The Superintendent of Police,
Tiruchirappalli District,
Trichy.
- 4.The Inspector of Police,
D-3, Samayapuram Police Station,
Trichy District.
- 5.Elaiyaraj
- 6.Johnson Kumar
- 7.Nattamai @ Natarajan



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8.Kanagaraj

9.Paul Emerson Prasanna

10.Harikrishnan

11.Senthil

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 to appoint Special Public Prosecutor to contest the Criminal Appeals filed by the respondents 5 to 8, 10 and 11 herein on the file of this Court and to conduct Prosecution in the pending trial S.C.No. 197 of 2023 against 9th respondent herein pending on the file of II Additional District Judge, Tiruchirappalli based on petitioner's representation dated 29.11.2023.

For Petitioner : Mr.R.Venkatesh

For Respondents : Mr.T.Senthil Kumar,
Addl. Public Prosecutor for R1 to R4.

ORDER

(Order of the court was delivered by G.R.Swaminathan, J.)

Heard the learned counsel for the writ petitioner and the Additional Public Prosecutor for the respondents 1 to 4.



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2.The petitioner's husband / Sekar was done to death in the year 2015. In that regard, Crime No.665 of 2015 was registered on the file Samayapuram Police Station. Charge sheet was filed and it was taken on file in S.C.No.245 of 2018 on the file of the II Additional District and Sessions Court, Tiruchirappalli. There were as many as 13 accused. Out of them, A10 absconded and the case against him was split up. The remaining accused were tried and six of them were convicted and sentenced to undergo life imprisonment. The remaining persons were acquitted vide judgment dated 25.09.2023. Aggrieved by the same, the convicted accused filed CrI.A.(MD)Nos.952, 964 and 990 of 2023 and CrI.A.(MD)No.500 of 2024 and they are pending before this Court. In the meanwhile, A10 was secured and the case against him has been taken up in S.C.No.197 of 2023.

3.This writ petition has been filed by the wife of the victim for appointment of Special Public Prosecutor to conduct the criminal appeals on behalf of the respondents and to conduct the prosecution in S.C.No.197 of 2023.



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4. When the matter was taken up for hearing, the learned counsel for the writ petitioner fairly submitted that the petitioner is happy with the way the trial is being conducted in S.C.No.197 of 2023 and that he does not want to press this part of the writ prayer. The said submission is placed on record.

5. The next question that calls for consideration is whether at the instance of the petitioner herein, this Court can appoint a Special Public Prosecutor to contest the criminal appeals filed by the convicted accused.

6. The learned counsel for the petitioner would refer to Section 15 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 as well as Rule 4(5) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995. He also submitted that when the petition for suspension of sentence was taken up, the relevant facts were not projected and that there was no sufficient opposition. This according to him, indicates the lackadaisical attitude on part of the prosecution.



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7.We are not swayed by the said submissions. This is for more than one reason. As rightly pointed out by the learned Additional Public Prosecutor, the petitioner herein had already filed CrI.M.P.(MD)No.16845 of 2023 for assisting the prosecution and the said application had been allowed by this Court.

8.Secondly, the charge involved is only under Section 302 and allied sections of IPC. No charge under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act had been framed. Therefore, invoking Section 15 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act may not be apposite.

9.Merely because, sentenced imposed on the convict was suspended, that cannot lead us to draw any adverse conclusion against the prosecution.

10.Since the petition for assisting the prosecution has been allowed and we intend to hear the learned counsel representing the victim, this writ petition need not be allowed.



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11.In this view of the matter, this writ petition is dismissed. No costs.

**(G.R.S. J.,) & (R.P. J.,)
22.11.2024**

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

- 1.The Home Secretary,
St. George Fort,
Chennai – 600 009.
- 2.The District Collector,
Tiruchirappalli District,
Trichy.
- 3.The Superintendent of Police,
Tiruchirappalli District,
Trichy.
- 4.The Inspector of Police,
D-3, Samayapuram Police Station,
Trichy District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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The II Additional District and Sessions Court,
Tiruchirappalli.



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**G.R.SWAMINATHAN, J.
and
R.POORNIMA, J.**

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