



W.P(MD)No.4881 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2024

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P(MD)No.4881 of 2024

and

CrI.O.P.(MD)No.1627 of 2024

W.P(MD)No.4881 of 2024

Palasam

... Petitioner

Vs.

1. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.

2. The Inspector of Police,
Nazareth Police Station,
Thoothukudi District.
(Crime No.104 of 2023)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records related to the impugned order on the file of the second Respondent in his proceedings No.2/SK3 PS/2024 dated 21.02.2024 and to quash the same and consequently direct the Respondent No.2 to give the permission for conducting protest at Mookkuperi Kamaraja Thidal.



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For Petitioner : Mr.R.Ilayaraja
For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl. side)

Crl.O.P.(MD)No.1627 of 2024

Palasam ... Petitioner

Vs.

1. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.

2. The Inspector of Police,
Nazareth Police Station,
Thoothukudi District.
(Crime No.104 of 2023)

3. The Inspector of Police,
C.B.C.I.D.,
Thoothukudi,
Thoothukudi District.

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to transfer the investigation in Crime No. 104 of 2023 on the file of the Inspector of Police, Nazareth Police Station/second Respondent herein to file of the Inspector of Police, C.B.C.I.D., Thoothukudi/third Respondent herein or under the direct supervision of the first Respondent herein.

For Petitioner : Mr.R.Ilayaraja
For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor



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COMMON ORDER

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The Petitioner had filed the Writ Petition in W.P.(MD)No.4881 of 2024, seeking a direction against the second Respondent in his proceedings No.2/SK3 PS/2024 dated 21.02.2024 and to quash the same and consequently direct the Respondent No.2 to give the permission for conducting protest at Mookkuperi Kamaraja Thidal and also had filed the Criminal Original Petitioner in Cr.O.P.(MD)No.1627 of 2024, seeking to transfer the investigation in Crime No.104 of 2023 on the file of the second Respondent to the third Respondent under the supervision of the first Respondent.

2.The learned Counsel for the Petitioner submitted that the Petitioner is the mother of the deceased person. The dead body of the Petitioner's son was found in the graveyard in Mookupperi, Nazareth, Thoothukudi District. Even though the mother of the deceased was available in the place where the body of the deceased was found, the Second Respondent had taken the complaint from the Village Administrative Officer of Mookkuperi village, which causes suspicious in the minds of the mother of the deceased which made her to lodge a



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complaint with the second Respondent and the second Respondent had registered a case as F.I.R in Crime No.104 of 2023, suspecting the the intention of the Police Department in proceeding with the complaint received from the Village Administrative Officer and avoiding the mother of the deceased as a de-facto Complainant. It is the further submission of the learned Counsel for the Petitioner that the Petitioner was not at all examined by the Investigation Officer when the CrI.O.P.(MD)No.1627 of 2024 was pending before this Court and came up for hearing. After hearing the learned Counsel for the Petitioner, this Court had directed the learned Respondent Police to file a status report. At that stage, the Petitioner came to know that even though occurrence took place within the limit of Nazareth Police Station, the investigation was conducted by the Inspector of Police, Thattarmadam Police Station which further gave a impression in the minds of the mother of the deceased that the Police Officers are conducting investigation without enquiring the people who are connected with the case. Therefore, the Petitioner had filed this petition seeking a permission to conduct dharna protest in front of the Nazareth Police Station.

3.When Writ Petition in W.P.(MD)No.4881 of 2024 came up for



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hearing on 04.03.2024, the case was adjourned to 05.03.2024, with the direction to the Respondent Police to appear before this Court and also directing the Registry to post the CrI.O.P.(MD)No.1627 of 2024 along with W.P.(MD)No.4881 of 2024 before this Court. Today (05.03.2024), the CrI.O.P.(MD)No.1627 of 2024 was also posted along with this Writ Petition and the CD file also made available by the Investigation Officer. Further, the learned Government Advocate (Criminal side) on instructions from the Respondent Police submitted that the investigation was completed and the final report was laid before the learned Judicial Magistrate, Santhakulam.

4.The apprehension expressed by the Petitioner is that she was not at all examined and the same was denied by the learned Government Advocate (Criminal side) stating that the CD file contains the statement of the mother of the deceased.

5.On perusal of the CD file, it is found that the contents of the affidavit of the Petitioner in W.P.(MD)No.4881 of 2024 and contents of the affidavit of the Petitioner in CrI.O.P.(MD)No.1627 of 2024 are reflected under Section 164 Cr.P.C., the statement of the Petitioner is



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recorded by the Investigation Officer. Just because, different Inspector had been directed to proceed with the investigation will not be a ground to suspect the role of the Investigation Officer.

6.Considering the facts that the investigation was completed and the final report was laid before the learned Judicial Magistrate, Sathankulam, the learned Judicial Magistrate, Sathankulam, is directed to hear the mother of the deceased before ever taking the final report on file and before taking cognizance of offence. The Petitioner is directed to approach the learned Judicial Magistrate, Sathankulam.

7.The learned Judicial Magistrate, Sathankulam, shall hear the mother of the deceased and record her statement. If on the statement of the mother of the deceased, the learned Judicial Magistrate arise at a conclusion that the CD file and the final report of the investigation does not reflect the facts as stated by the mother of the deceased, the learned Judicial Magistrate, Sathankulam may pass appropriate orders directing the Respondent Police to conduct further investigation. The report shall be sent to this Court by the learned Judicial Magistrate, Sathankulam.



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8. With the above said direction, both the Writ Petition and the Criminal Original Petition are closed. No costs.

05.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

1. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
2. The Inspector of Police,
Nazareth Police Station,
Thoothukudi District.
(Crime No.104 of 2023)
3. The Inspector of Police,
C.B.C.I.D.,
Thoothukudi,
Thoothukudi District.
4. The Additional Public Prosecutor,
Madurai Banch of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

jbr

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and
CrI.O.P(MD)No.1627 of 2024

05.03.2024