



W.P(MD)No.13705 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	18.12.2024
Delivered on	20.12.2024

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P(MD)No.13705 of 2023

R.Tamilarasi

... Petitioner

Vs

1. The Director General of Police,
Office of the Director General of Police,
Chennai.

2. The District Collector,
Office of the District Collector,
Pudukkottai District.

3. The Superintendent of Police,
Office of the Superintendent of Police,
Pudukkottai.

4. The Deputy Superintendent Of Police,
Office of the Deputy Superintendent of Police,
Alangudi, Pudukkottai District.

5. The Deputy Superintendent Of Police,
Office of the Deputy Superintendent of Police,
Human Rights and Social Justice Wing,
SP Office Campus, Pudukkottai District..



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6. The Inspector of Police,
Karambakudi Police Station,
Pudukkottai District.

7. The Additional Director General of Police,
O/o. the Additional Director General of Police,
Crime Branch CID,
No.3 Sidco Electronic Complex 1st Floor,
Guindy, Chennai.

.. Respondents

**(*R7 is impleaded vide order dated 28.11.2024
in W.M.P(MD)No.13690 of 2023
in W.P(MD)No.13705 of 2023)**

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus to direct the Respondent no.1 to withdraw the case in Crime Number 125 of 2023 dated 02.05.2023 on the file of Respondent no.6 and entrust the same to the Proposed Respondent no.7 or any other competent Officials for completion of investigation.

**(*Prayer amended vide court order dated 28.11.2024
in WMP(MD).13691/2023 in WP(MD).13705/2023)**

For Petitioner : Mr.T.Lajapathi Roy
Senior Counsel
For Mr.R.Alagumani

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)



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ORDER

This petition has been filed seeking for transfer of investigation in Crime No.125 of 2023 from the file of the sixth respondent and to entrust the same to the file of the seventh respondent.

2.The case of the petitioner is that she belongs to Hindu Scheduled Caste community. Her family had agricultural land and she along with her husband used to do agricultural work. In the year 2019, the adjacent land owner named Karrupaiah illegally encroached upon the agricultural land and attempted to construct a compound wall. The husband of the petitioner immediately gave a complaint before the second respondent. Since no action was taken, the said Karrupaiah started constructing the compound wall. The same was prevented and it resulted in a police complaint given against the husband of the petitioner in Crime No.80 of 2019.

3.In order to find out a permanent solution, the husband of the petitioner arranged for a survey of the property in the presence of the



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sixth respondent and the survey was conducted on 16.05.2023 by the Government Surveyor and boundaries were marked. At the time of conducting the survey, there was an open threat made to the petitioner's husband. Three days thereafter, on 19.05.2023, the petitioner's husband went missing and did not return home. On 20.05.2023, at about 09.00 a.m., the body of the petitioner's husband was found in a well. The complaint that was given by the petitioner was not properly investigated and the police came to a hasty conclusion that it is a case of accidental fall into the well. Under these circumstances, the present case came to be filed before this Court.

4. When the matter came up for hearing on 28.11.2024, this Court passed the following the order:

"Heard the learned Senior Counsel appearing on behalf of the petitioner and the learned Government Advocate appearing on behalf of the respondents.

2. In the case in hand, the petitioner's husband was owning the agricultural land in Survey No.162/8 comprising about five acres. There was an adjacent land owner named Karuppiah and he attempted to encroach upon the



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agricultural land by putting up a compound wall. The same was resisted and a complaint was also given. When the petitioner's husband tried to stop the same, he was brutally attacked but however, an FIR came to be registered against him in Crime No.80 of 2019. This incident was the genesis for the entire problem.

3.In order to resolve the dispute, the petitioner's husband took steps to survey the property and to fix the boundary stones. Accordingly, an application was submitted before the revenue authorities and a survey was conducted on 16.05.2023 and a survey certificate was also issued by the concerned authority. At the time of conducting the survey, there was a open threat made to the petitioner's husband to the effect that if someone is done to death, whether the measurements will get changed.

4.Pursuant to the above, on 19.05.2023, the petitioner's husband went missing and he did not return home. The next day on 20.05.2023 at about 9.00 a.m., the body of the petitioner's husband was found floating in the well.



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5.The petitioner gave a complaint in this regard by citing the earlier incident and also by naming the persons who are suspected to be involved in the murder of her husband. Based on the same, an FIR came to be registered in Crime No.125 of 2023 under Section 174(3) of Cr.P.C. The FIR was registered only on the premise that it was an unnatural death.

6.When the matter was taken up for hearing today, the learned Government Advocate, on instructions, submitted that the investigation was done and it was found that the petitioner's husband had accidentally fallen into the well and he sustained head injuries. It was also found that no one murdered the petitioner's husband.

7.In the considered view of this Court, the sequence of events, certainly raises a doubt in the manner in which the petitioner's husband had died within a span of three days after the survey was conducted. This is more so since on the day when the survey was conducted, there was an open threat made to him. That apart, it is also seen that the petitioner belongs to Scheduled Caste community and there is a



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communal angle to this case and it must be seen as to whether a proper investigation was done in this case.

8.In view of the above, there shall be a direction to the fourth respondent to file a status report before this Court explaining the entire investigation that was done and the status report must also point out to the various materials that were collected during the course of investigation. The Case Diary shall also be furnished to this Court during the next date of hearing.

9.Post this case under the caption 'part-heard cases' on 12.12.2024."

5.Heard the learned Counsel appearing on either side.

6.In the instant case, the survey was conducted on 16.05.2023 and a survey certificate was issued. Even at that time, there was an open threat made to the petitioner's husband. The incident took place three days thereafter, on 19.05.2023 and the body of the petitioner's husband was found in a well.



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7.This Court had the advantage of going through the case diary. It is seen that the statements of L.W.1 to L.W.8 have been recorded. Apart from the petitioner, the statements were recorded from the relatives and others in the surrounding area and they all talk about the previous enmity.

8.The postmortem report shows that the deceased died due to fatal injury and for proper appreciation, the external injuries sustained by the deceased are extracted hereunder:

"External Examination: (Injuries):- The following injuries were antemortem in nature.

1.Reddish brown colour grazed abrasion obliquely place was present over the left back aspect of the shoulder extending to the back aspect of left arm(direction below to upwards) and measured total length of 36 x 23 cm (Over an area).

2. Bluish black colour contusion was present over the left side of forehead above the left eyebrow and measured 4 x 3 cm x mescle doep (On incision sounding tissue contusion).



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3. *Bluish black colour contusion was present over the left upper eyelid and measured 2 x 1.5 cm (On incision surrounding tissue contusion).*

4. *Grazed abrasion obliquely placed was present over the back aspect of left elbow and measured 5 x 4 cm.*

5. *Bluish black colour contusion total there in member obliquely placed was present over the inner aspect of left arm 0.5 to 1 cm apart and measured 1.5 x 1 cm, 1.5 x 1 cm, 2 x 1 cm. (On incision surrounding tissue contusion)*

6. *Grazed abrasion was present over the inner aspect of right arm and measured 3 x 2cm.*

7. *Bluish black colour contusion was present over present over the upper part of left thigh and measured 3 x 2 cm. (On incision surrounding tissue contusion).*

8. *Bluish black colour contusion was present over the upper part of the left side of the chest and measured 5 x 4 cm (On incision surrounding tissue contusion).*

9. *Fatal Injury:- Laceration with surrounding tissue contusion and bridging, obliquely placed was present over the vertex and measured 5 x 1 cm x bone deep (on dissection*



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*underlying extensive subscalp contusion, fracture of vault
(Depressed comminuted fracture with surrounding tissue
contusion and measured total length of 9 x 5 x 4cm)."*

9.It was also brought to the notice of this Court by the learned Government Advocate (Crl.Side) that the viscera report shows that there is presence of ethyl alcohol in the stomach, intestine, liver and kidney. It was therefore contended that the petitioner's husband under the influence of alcohol, fell into the well and while falling, his head had hit an Electricity Board cement post inside the well, which was situated 30 feet from the top of the well.

10.The investigation officer had also raised the queries to the medical officer who performed the postmortem and came to a conclusion that it is a clear case of accidental fall into the well, wherein the deceased sustained head injuries. It is true that there was a previous dispute between the deceased and the suspected persons. However, the entire materials that are available, does not connect any suspected person in this case. There were at least six persons, who were suspected in this case. The CDR tower location was collected and verified and the CCTV



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footages were also verified. The finger print expert was summoned to see if any clue is available at the scene of occurrence. There was no clinching material to connect any of the suspects to the crime. This coupled with the postmortem report and the opinion of the Doctor, made the investigation officer to come to a conclusion that there are no materials to proceed further with the case.

11. In the case in hand, there is some suspicion on the death of the deceased going by the previous enmity with the adjacent owner, who is a caste Hindu. However, the materials placed before this Court shows that the prosecution cannot proceed further against any person by making them as accused merely based on suspicion. At the end of the day, it boils down to the fact as to whether it is a case of accidental fall or the deceased was pushed inside the well by someone. The injuries sustained shows that it was caused only due to the deceased falling into the well and his head hitting an Electricity Board cement post, which was lying broken at the level of 30 feet from the top of the well. If persons are going to be added as accused only based on some suspicion without any materials, it will be very difficult for the prosecution to sustain the case. Therefore, this Court does not find any ground to order for



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reinvestigation in this case by transferring the investigation to some other agency. The case diary placed before this Court shows that investigation has been conducted in a proper and fair manner.

12.In the result, this writ petition stands dismissed. No costs.

20.12.2024

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

LR

To

1. The Director General of Police,
Office of the Director General of Police,
Chennai.

2. The District Collector,
Office of the District Collector,
Pudukkottai District..

3. The Superintendent of Police,
Office of the Superintendent of Police,
Pudukkottai.

4. The Deputy Superintendent Of Police,
Office of the Deputy Superintendent of Police,
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O/o. the Additional Director General of Police,
Crime Branch CID,
No.3 Sidco Electronic Complex 1st Floor,
Guindy, Chennai.

8. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.

LR

Pre-delivery order made in

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20.12.2024