



W.P.(MD)No.20280 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 04.09.2024

Pronounced on : 20.09.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.20280 of 2024

and

W.M.P.(MD)No.17204 of 2024

C.Pothumponnu

... Petitioner

Vs.

- 1.The State Human Rights Commission,
Rep by its Chairperson,
Thiruvarangam, 143, P.S.Kumarasamy Raja Salai,
Chennai 600 028.
- 2.The National Commission of Scheduled Caste,
Rep by its Regional Director,
2nd Floor, Block-5,
Shastri Bhawan,
Chennai-600006.
- 3.The Dean,
The Government Rajaji Hospital,
Madurai.
- 4.The Superintendent of Police,
Sivagangai District.



W.P.(MD)No.20280 of 2024

5.The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.

6.The Superintendent of Police,
Crime Branch CID,
No.220, Pantheon Road, Egmore,
Chennai 600 008.

... Respondents

Prayer : This Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the third respondent to pass appropriate order to transfer the investigation of case pertaining to the suspicious death of the petitioner's husband from the second respondent and handover the same to the third respondent CBCID by considering the representation of the petitioner dated 22.08.2024.

For Petitioner : Mr.N.Karthikkanna

For R1 to R3 : Mr.M.Muthumanikkam,
Government Advocate(Civil Side)

For R4 to R6 : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor.

ORDER

The Writ Petition has been filed invoking Article 226 of the Constitution of India, seeking direction to the fourth respondent to pass orders to transfer the investigation of the case pertaining to the suspicious



W.P.(MD)No.20280 of 2024

death of the petitioner's husband, from the fifth respondent and hand over the same to the sixth respondent/CBCID, by considering the petitioner's representation dated 22.08.2024.

2.It is not in dispute that on the basis of the complaint given by the petitioner, FIR came to be registered in Cr.No.367 of 2024 on 21.08.2024 under Section 194 BNSS, 2023.

3.The case of the petitioner is that she along with her deceased husband Chellapandian and two children were residing at SPJ Brick Chamber premises at Manalur, Thiruppuvanam, Sivagangai District, that one Harikrishnan @ Arivu family have been residing adjacent to the petitioner's house, that the petitioner's family suffered from some caste discrimination by the said Harikrishnan family, that few days before the alleged occurrence, the said Harikrishnan and his wife Pandiyammal claimed that their gold ornament, about 4 sovereign, was found missing and they started to blame the petitioner's husband and started to harass them, that the said Harikrishnan, his wife and two sons confined the petitioner's husband in their house on 17.08.2024 and tortured him



W.P.(MD)No.20280 of 2024

WEB COPY

physically, that they brought the petitioner's husband to the second respondent Police Station on 18.08.2024 and he was subjected to torture in the Police Station and subsequently, was sent back, that the said Harikrishnan and his family members have brought the petitioner's husband to their home again and retained him in confinement and brutally assaulted him for the next two days, that the petitioner was forced to bring 4 sovereigns of gold as ransom to let her husband free and hence petitioner was forced to visit her mother and mother-in-law houses to get assistance, that meanwhile on 21.08.2024 at about 01.00 pm., the said Pandiyammal called the petitioner and directed her to come home immediately, that when the petitioner went to their house and shocked to notice that her husband was found dead in the locked house, that though he apparently seems to have murdered with multiple severe injuries all over the body, he was setup in a position like hanging and claimed that he committed suicide, that the said Harikrishnan family, before arrival of the Police, had intentionally removed the hang rope and let him down to destroy the evidence, that though the fifth respondent had arrived to the occurrence spot, they have not collected proper evidences from the occurrence spot, that the fifth respondent police deliberately refused to file FIR and take



W.P.(MD)No.20280 of 2024

any action against the accused persons, that when the petitioner contacted the Deputy Superintendent of Police and the first respondent's office, thereafter only the petitioner was informed that they have registered FIR under Section 194 BNSS, 2023 for suspicious death, that the second respondent is apparently acting in a biased manner and not conducted the investigation properly, that the petitioner came to know that postmortem was going to be conducted on 22.08.2024 in the Government Rajaji Hospital, Madurai, that the postmortem is to be directed to be conducted in a fair and transparent manner, that the fifth respondent and the accused persons are attempting to disintegrate the postmortem report using their influence, so as to escape from the murder charge and that therefore, the petitioner being poor lady and unable to defend the influential forces, was constrained to approach this Court seeking directions for transferring the investigation from the fifth respondent and hand over the same to sixth respondent. The petitioner has also sought for interim directions directing the authorities to ensure the postmortem of the petitioner's husband be videographed and body be preserved until disposal of the present writ petition.



W.P.(MD)No.20280 of 2024

WEB COPY

4. When the matter was taken up for admission on 22.08.2024, the learned counsel appearing for the petitioner submitted that the postmortem should be properly conducted and not even an inquest was conducted and the Police have been favouring the accused from the beginning. At that juncture, the learned Additional Public Prosecutor, by refuting the allegations of the petitioner's side, submitted that inquest was duly done and the statement of the witnesses including the neighbors as well as the petitioner were recorded, that the postmortem was conducted by three Doctors at about 01.00 pm., to 01.30 pm., and that the entire postmortem is also being videographed. Considering the submission made on either side, the learned Judge of this Court, by observing that it was very early and nascent to come to any conclusion, whatsoever, when the postmortem itself is being conducted and all the primary evidences are being necessarily preserved, the apprehension can be addressed after filing of the detailed counter affidavit by the respondents and that since the postmortem was done by three Doctors, there is no doubt about the veracity of the postmortem and therefore, after the conduct of the necessary formalities as per the rules, the body can be handed over to the petitioner.



W.P.(MD)No.20280 of 2024

WEB COPY

5.In pursuance to the directions of this Court, after completion of postmortem and after completing necessary formalities, the body was handed over to the petitioner.

6.The fifth respondent has filed a counter affidavit disputing the petitioner's averments and further stated that one Pandiyammal neighbor of the defacto complainant had alleged that the deceased had stolen 4 sovereigns of gold chain from her house in an inebriated condition, that since dispute arose between two families, they went to the fifth respondent on 19.08.2024 at about 15.00 hrs, that when the matter was enquired, both the parties wanted to settle the issue amicably and had discussion out side of the Police Station premises, for about 2 ½ hours and they returned to the Police Station at about 17.30 hours and informed that the deceased accepted that he had taken the chain and had assured to return the same within 20 days, for which, the said Pandiyammal had agreed, that both parties had requested not to take further action, based on the agreement reached and hence, the matter was closed, that the defacto complainant and her husband were literally worried about return of the gold chain and the defacto complainant had left to her parental home at Kamuthi on



W.P.(MD)No.20280 of 2024

20.08.2024 to raise funds and when she returned on 21.08.2024 at about 12.30 hrs, she had found her husband dead and hanging in a noose fastened to the window grid and on the basis of the complaint given by the petitioner, FIR came to be registered in Cr.No.367 of 2024 under Section 194 BNSS, 2023 and immediately taken up for investigation.

7.Further, the case of the fifth respondent is that after taking up the investigation, the fifth respondent visited the place of occurrence and prepared observation Mahazar and rough sketch, that the inquest was conducted at mortuary of Government Rajaji Hospital in the presence of Panchaytars and body was sent through Gr.I PC-1905 for postmortem, that after completion of postmortem, body was handed over to the family under proper acknowledgement and that the investigation is pending.

8.Though the petitioner in her affidavit filed in support of this petition has alleged that on 17.08.2024, her husband was confined by the said Harikrishnan and during his detention, he was brutally attacked, that the petitioner's husband was taken to the Police Station on 18.08.2024 and he was subjected to torture in the Police Station also and that thereafter,



W.P.(MD)No.20280 of 2024

the said Harikirshnan family had taken the petitioner's husband again to their home and retained him in confinement and attacked brutally for two days, according to the learned Additional Public Prosecutor, the petitioner has not lodged any complaint for the alleged happenings on 17.08.2024 and 18.08.2024 and for the alleged attack made for two days, subsequently returning from the Police Station.

9.The learned Additional Public Prosecutor would submit that they had preserved CCTV footages in respect of the petitioner's husband and accused persons visiting the Police Station and subsequently went out side and again returned to the Police Station to inform that the matter came to be settled amicably. He would also show the video wherein the deceased was taken to the rest-room by his son, subsequent to the returning from the Police Station.

10.It is pertinent to note that as per the counter affidavit of the fifth respondent, they have examined seven witnesses and recorded their statements under Section 180(3) BNSS, 2023, and that they have sent a requisition to get CDR details of the phone Nos: 9344675246 and



W.P.(MD)No.20280 of 2024

9995994053. Moreover, the learned Additional Public Prosecutor has produced a copy of the postmortem certificate sent by the Dean, Government Rajaji Hospital, Madurai.

11.As rightly pointed out by the learned Additional Public Prosecutor, a team of Doctors have given their opinion for the manner of the death as “suicide” and the cause of death is reserved for want of Viscera and Histopathological Examiner’s report. Moreover, as rightly pointed out by the learned Additional Public Prosecutor, in the postmortem report it is stated that multiple superficial surface incisions made all over the body, which reveals nil injuries. It is also necessary to refer the postmortem report with regard to the neck portion, which reads as follows:-

The base of the ligature mark is pale, hard, glistening white and parchment like. The underlying neck structures like thyroid, cricoid cartilages, tracheal rings and hyoid bone are normal. There is no extravasation of blood noted on the superficial and deeper planes of neck.

12.Considering the above facts and circumstances and taking note of the counter affidavit and postmortem report, this Court is of the view



W.P.(MD)No.20280 of 2024

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that the investigation is proceeding properly and the petitioner has not shown any other material particulars or reasons to transfer the investigation at this point of time. Hence, this Court is not inclined to grant the relief claimed. But, at the same time, the petitioner in her affidavit has stated that she is belonging to the Scheduled Caste community whereas the proposed accused are belonging to different community. According to the prosecution, the fifth respondent is investigating the case on hand. Considering the same, the Deputy Superintendent of Police, Manamadurai is directed to proceed with the investigation in Cr.No.367 of 2024, complete the same and file a final report, within a period of three months from the date of receipt of a copy of this order.

13. With the above observations and directions, this writ petition stands disposed of.

20.09.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
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W.P.(MD)No.20280 of 2024

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W.P.(MD)No.20280 of 2024

K.MURALI SHANKAR,J.

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Pre-Delivery Order made in
W.P.(MD)No.20280 of 2024

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