



W.P.(MD)No.25061 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.12.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.25061 of 2024

and

W.M.P.(MD)Nos.21334 and 21336 of 2024

V. Thangapandian

... Petitioner

/Vs./

1. The District Collector
Tirunelveli District.
2. The Inspector of Police
V.K.Puram Police Station,
Tirunelveli District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, by calling for the entire records pertaining to the order passed by the first respondent in Muu.Mu.No. 4354/2024/C2 dated 22.08.2024 and quash the same and consequently appoint a Special Public Prosecutor strictly in adherence with section 24(8) of Cr.P.C. for conducting the prosecution in S.C.No.869 of 2023 pending on the file of the IV Additional District and Sessions Court Tirunelveli.



W.P.(MD)No.25061 of 2024

WEB COPY

For Petitioner : Mr.R.Anand

For Respondents : Mr.M.Senthil Ayyanar

Government Advocate for R1

: Mrs.M.Aasha,

Govt. Advocate (Crl.Side) for R2

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 22.08.2024, thereby given additional charge to one Sankaravel as Additional Public Prosecutor to act as a Special Public Prosecutor for the case in S.C.No.869 of 2023 on the file of the IV Additional District and Sessions Court Tirunelveli.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner is the father of the deceased. His son was murdered by the accused and the accused persons are facing trial in S.C.No.869 of 2023 on the file of the IV Additional District and Sessions



W.P.(MD)No.25061 of 2024

Court Tirunelveli for the offences under Sections 120(B), 147, 341, 294(b), 342, 323, 506(ii), 302 read with Sections 34 and 109 I.P.C. There are totally seven accused. The first accused and the seventh accused are son and father respectively. One Kalimuthu is the Additional Public Prosecutor for the IV Additional District and Sessions Court Tirunelveli. He is the relative of the accused Nos.1 and 7. When ever the accused persons filed application under Section 317 Cr.P.C for their absence. The Additional Public Prosecutor did not even object the same and allow the accused persons not to appear before the trial Court, one after another. Therefore, the trial itself is prolonged in and keep on adjourned, without commencing the trial. Therefore, the petitioner, who is being the complainant i.e., the victim's father, submitted representation before the first respondent for appointment of Special Public Prosecutor as contemplated under Section 24 Cr.P.C. However, it was not considered and as such he filed a direction petition before this Court in CrI.O.P. (MD)No.18413 of 2023. Though this Court directed the trial Court to complete the trial within a period of five months, the trial Court could not be able to complete the trial, since the accused persons are absent one after another and it was not objected by the Additional Public Prosectuor.



W.P.(MD)No.25061 of 2024

WEB COPY

4. Considering the same, the first respondent now without appointing any Special Public Prosecutor, ordered to give additional charge for the case in S.C.No.869 of 2023 on the file of the IV Additional District and Sessions Court Tirunelveli, to one Sankaravel, who is the Additional Public Prosecutor for III Additional District and Sessions Court Tirunelveli.

5. It is relevant to extract Section 24(8) of the Code of Criminal Procedure Code:

“24.(8) The Central Government or the State Government may appoint, for the purposes of any case or class of cases, a person who has been in practice as an advocate for not less than ten years as a Special Public Prosecutor.”

6. Thus, it is clear that the person, who has been in practice as an Advocate for not less than 10 years can be appointed as Special Public Prosecutor. Therefore, the first respondent did not comply the procedure under Section 24(8) Cr.P.C, instead of ordered to give additional charge



W.P.(MD)No.25061 of 2024

to the another Additional Public Prosecutor, to conduct the present case also.

7. In view of the above, the order passed by the first respondent, in Muu.Mu.No.4354/2024/C2 dated 22.08.2024, cannot be sustained and the same is liable to be quashed, accordingly, quashed. The first respondent is directed to appoint a person, who has been in practice as an Advocate for not less than 10 years, as Special Public Prosecutor, for the case in S.C.No.869 of 2023, pending on the file of the IV Additional District and Sessions Court Tirunelveli, within a period of two weeks from the date of receipt of copy of this order, to conduct the trial.

8. With the above direction, this Writ Petition is allowed.
No costs. Consequently, connected Miscellaneous Petitions are closed.

02.12.2024

Internet : Yes/No
NCC : Yes / No
Index : Yes/No
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W.P.(MD)No.25061 of 2024

G.K.ILANTHIRAIYAN, J.

LS

TO:-

1. The IV Additional District and Sessions Court,
Tirunelveli.
2. The District Collector
Tirunelveli District.
3. The Inspector of Police
V.K.Puram Police Station,
Tirunelveli District.

Order made in
W.P.(MD)No.25061 of 2024

Dated:
02.12.2024