



W.P.(MD)No.29013 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On	07.01.2025
Pronounced On	30.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.(MD)No.29013 of 2024

V.Rathna Kumar

... Petitioner

Vs.

- 1.The District Collector,
Dindigul, Dindigul District.
- 2.The Revenue Divisional Officer,
Dindigul,
Dindigul District.
- 3.The Tahsildar,
Taluk Office,
East Taluk,
Dindigul District.
- 4.The Superintendent of Police,
Dindigul,
Dindigul District.
- 5.The Deputy Superintendent of Police,
Dindigul Rural Sub-Division,
Dindigul.



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6.The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul,
Dindigul District.

7.The Dean,
Government Rajaji Hospital,
Madurai,
Madurai District.

8.The Chief Medical Officer,
Government Hospital,
Dindigul,
Dindigul District.

9.The Dean,
Government Head Quarters,
Medical College Hospital,
Dindigul District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, directing the respondents to exhume without any further delay the petitioner's elder brother Subramani's body from the Corporation Graveyard, situated at Odapatty, near Othakannu Bridge, Bharathipuram, Dindigul District, and direct the respondents 7 to 9 to conduct postmortem by a team of three senior professors from forensic departments of Madurai and Dindigul, Government Medical College Hospital, under the full video coverage with the help of a scientific officer, within a stipulated time that may be fixed by this Court.

For Petitioner : Ms.M.Benazir Begum

For R1 to R3 & R7 to R9: Mr.M.Muthumanikkam
Government Advocate



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For R4 to R6 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

The petitioner has filed the Writ Petition seeking a direction to the respondents to exhume the body of his elder brother, Subramani, from the Corporation Graveyard located at Odapatty, near Othakannu Bridge, Bharathipuram, Dindigul District. The petitioner also seeks a direction to the respondents 7 to 9 to conduct a postmortem with a team of three senior professors from the forensic departments of Madurai and Dindigul Government Medical College Hospital, and to ensure full video coverage of the procedure with the help of a scientific officer, within a time frame.

2. The learned counsel for the petitioner submits that the petitioner, an ex-army man, is a resident of Bangalore. He was born and raised in Dindigul District but moved to Bangalore in August 1999. The petitioner's father, K.Viswambaram, worked as a Section Control Officer in the Southern Railway's Madurai Division and passed away while in service on 01.01.1979. The petitioner's elder brother, V.Subramani, was given employment on compassionate grounds. The petitioner has three brothers and two sisters, and his elder brother Subramani passed away on 15.11.2024.



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3. The learned counsel submits that Subramani, who had retired in January, 2023, was residing in Dindigul at the time of his death. On 15.11.2024, Subramani's wife, Jayarani, called the petitioner's niece, Rekha Senthil Kumar, who lives in Erode, to inform her of Subramani's death. She explained that Subramani had collapsed and died suddenly due to heavy drinking. Rekha then informed the petitioner, who travelled to Dindigul and arrived on 16.11.2024 at 08:00 a.m. The body of the petitioner's brother was kept at the Government Hospital in Dindigul for an autopsy. However, the petitioner was informed by neighbours that the death appeared unnatural.

4. The learned counsel further submits that the petitioner's younger sister, Meena, and younger brother, Jayakumar, arrived at the Government Hospital at about 10:00 a.m. on 16.11.2024. The petitioner visited the hospital mortuary, where he observed strangulation marks on his brother's neck and injuries, including blood clots, on his legs. Subramani's son, Dr.Rishi Kumar, an anesthetist at the Government Hospital, Theni, submitted a written request stating that Subramani's death was natural and no postmortem was required. Consequently, the body was wrapped in a white cloth and returned to the family by 01:00 p.m.



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5. The learned counsel for the petitioner submits that the neighbours informed the petitioner that on the previous day, loud arguments were heard from the house, after which there was silence, followed by news of Subramani's death. The neighbours Sudha and Sharmila, who had seen Subramani the previous day in good health, noticed injury marks and blood on his body when they saw his body in a semi-nude condition, wearing only an adult diaper. When they tried to offer help to Subramani's wife, Jayarani, and daughter, Anitha, they were rudely sent away.

6. The learned counsel for the petitioner further submits that the time of death was also reported inconsistently. Anitha, Subramani's daughter, is a divorcee with a history of drug addiction and bad habits, and has been rebellious towards her father. The petitioner believes that the strained relationship between his brother and his wife, as well as his daughter's behavior, may have led to Subramani being forced to death, which was then falsely portrayed as a natural death.

7. Further, the learned counsel for the petitioner has raised the following points for consideration:-



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"a. The injuries over the body of the deceased were creating a strong suspicion and which has not been properly explained by the close persons of the deceased.

b. The body of the deceased was not allowed to show even to the near relatives and friends of the deceased and not into public view for more than 5 hours.

c. The deceased has no prior diseases and he is very active and sound minded person, he would not be invited the injuries on his own since he was being the Railway staff, even at his own house when his close relatives were exists at the relevant point of time.

d. The photos were produced by the police in a enlarged printed copies. Any photo can be edited and that was also produced in printed enlarged mode.

e. There is no good quality in the photos, by changing the angle and covering the neck when the photos were produced.

f. According to their customary practices, the body has to be immolated, instead of done so, the body was buried without following the usual ceremonies of death of person in the petitioner's family in a hurried manner. The reason behinds that, at the time of incineration of the body at crematorium, they have to follow the procedures and there was a possibility to seen the wounds all over the body of the deceased by public.

g. Initially, the body of the deceased was taken to the Government Hospital by the respondent police and kept the same there for one day night and half of the day. Even thereafter also,



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no Doctor report was received by the respondent police while filing the status report before this Hon'ble Court. On the other hand, even as per the statement of the son of the deceased, on the date of death, the deceased was treated in St. Joseph's Hospital, Dindigul, however, to that effect no report was received from the hospital and the doctors who attended him on that day. No proper statement was received from the hospital management, whether he was treated as outpatient or inpatient in the hospital.

h. The Body was taken to Government Hospital, Dindigul, wherein it was covered completely with white cloth just as if it was done postmortem. No relatives were allowed to attend the funerals, the relatives of the deceased's wife were not informed about the death. No railway employees were informed about the death.

i. The wife of the deceased called to the deceased's niece at 3.55 p.m., and informed that the deceased was well and at 4.07 p.m., the wife of deceased informed that he died and body turned chilled.

j. The full photo was not produced before this Honb'le High Court while filing the status report.

k. Generally, the algor mortis (cooling of the body after death) occurs when the body's internal temperature begins to change after death, as the body's thermoregulatory systems stop working. Algor mortis usually begins about 30 minutes after death.



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l. No one was allowed to touch the body, the own brother of the deceased and his daughter was waiting outside the house for more than 20 minutes and then only, the wife and the daughter of the deceased opened the door. The own brother of the deceased has seen the body in x shape, which lying on the floor.

m. The 6th respondent police have not even filed a case under Section 193 or 194 of BNSS Act, 2023 (Section 173 of IPC), if it has been done by the police, the proper investigation will be conducted by the Magistrate within whose local jurisdiction, the offence has been committed in accordance with Section 196 of the BNSS Act, 2023 (Section 176 of IPC)."

8. In support of her submission, the learned counsel for the petitioner relied upon the judgment of this Court in the case of **Santhosh vs. The District Collector, Madurai District and others** [W.P.(MD)No. 12608 of 2020, dated 02.12.2020], wherein guidelines were established for exhuming a body and conducting a postmortem.

9. This Court had directed the Inspector of Police, Dindigul, to file a status report regarding the allegations made by the petitioner. Further, the Inspector of Police was directed to enquire with the individuals named by the petitioner, including Subramani's family members and relatives.



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Hence, on 27.12.2024, the following individuals were examined and their statements recorded: Jayarani (wife of the deceased Subramani), Dr.Rishi Kumar (son of the deceased), Selvi Anitha (daughter of the deceased), the writ petitioner, Selvi Meenakshi (a relative of Subramani), Mrs.Sudha and Mrs.Sharmila (neighbours of Subramani), Mr.Jayakumar (another brother of Subramani), Selvi Yasodha @ Kowsalya (relative of Subramani), Mr.Ramu (co-worker of Subramani), Mr.Rajkumar and Mr.Gandhi (relatives of Subramani), Dr.Suresh (friend of Dr.Rishi Kumar), Mr.Ramasamy (employee of Freezer Box Company), and Mr.Arockiya Sagayaraj (neighbour of Subramani).

10. According to the statement of Arockiya Sagayaraj, after hearing of Subramani's death, he went to the deceased's house with Jayakumar, the brother of the deceased, and Ramasamy, an employee of the freezer box company. Together, they bathed the body of Subramani and placed it inside the freezer box. This statement was corroborated by others, including Ramasamy, who confirmed that the freezer box was brought to Subramani's house at around 05:00 p.m. on 15.11.2024, and that he, along with Jayakumar and Arockiya Sagayaraj, bathed the body. Ramasamy and others confirmed that they did not observe any significant injuries on the body.



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11. Jayakumar, the brother of the deceased, stated that on 16.11.2024, a quarrel occurred between the petitioner and Subramani's wife, son, and daughter regarding the transfer of the house title. Jayakumar claimed that the petitioner had made wild allegations and threatened to file a case against Subramani's family. Yasodha @ Kowsalya, daughter of Jayakumar, stated that she went to Subramani's house with her father after hearing of his death, and clarified that her name had been unnecessarily used by another relative, Rathna Kumar, the petitioner herein to cause confusion within the family.

12. One Ramu, a co-worker of Subramani, stated that upon hearing of his death, he went to the Government Hospital, Dindigul, on 16.11.2024. He confirmed that neither the petitioner nor any of the family members had expressed suspicion regarding Subramani's death. Ramu further noted that Subramani had a history of alcohol consumption. Rajkumar and Gandhi, relatives of the deceased, confirmed that they had participated in the last rites until the body was buried. Dr.Suresh, a friend of Dr.Rishi Kumar, stated that he had advised Subramani against regular drinking due to his jaundice, which could worsen his liver condition.



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13. The neighbors, Sudha and Sharmila, stated that they had not informed the petitioner of any suspicious circumstances surrounding Subramani's death. They confirmed that when they visited the deceased's house on 15.11.2024, they had great respect for Subramani. Sudha also mentioned that there appeared to be differences of opinion between the petitioner and Subramani's family regarding certain issues.

14. The petitioner and his sister Meenakshi have levelled accusations against Subramani's wife Jayarani, daughter Anitha, and son Rishi Kumar, suggesting that they might have been involved in Subramani's death. It seems that there were family disputes, including over Subramani's love marriage to Jayarani, which was initially not accepted by his family, leading to a strained relationship. The petitioner and his sister Meenakshi appear to have had ongoing issues with Subramani's wife and children.

15. However, it was confirmed that there is no evidence to suggest an unnatural death. The Police have submitted photographs of the deceased's body, which show no signs of ligature marks or darkness around the neck. The bruises found on the neck are minor and can be attributed to Subramani's diabetic condition. The petitioner's claim that



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the body was hastily buried, rather than cremated as per family customs, contradicts his own argument, since by cremation the evidence can be erased.

16. The order cited by the learned counsel for the petitioner pertains to custodial deaths, whereas in this case, all family members, including relatives and neighbors, participated in the last rites. The photographs also confirm that there were no suspicious injuries on Subramani's body.

17. Considering the Inspector of Police's report and the photographs, this Court finds that the petitioner's allegations are not substantiated. Exhuming the body and conducting a postmortem would only cause further disrupt to the deceased and distress to his family members. Therefore, the request for exhuming the body and conducting a postmortem is denied.

18. In view of the above, this Court, finding no merit in the Writ Petition, is inclined to dismiss the same. Accordingly, the Writ Petition is dismissed. No costs.

Index : Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
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M.NIRMAL KUMAR, J.

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Pre-delivery order in
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