



W.P. (MD) No.29514 of 2024

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IN THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.04.2025

Pronounced on: 29.07.2025

CORAM

The Hon`ble Mr.Justice P.DHANABAL

W.P. (MD) No.29514 of 2024

D.B. Senthil Kumar S/o. D. Balasundaram .. Petitioner

Vs.

1. State represented by:

The Inspector of Police,
Thanjavur Medical College Police Station,
Thanjavur District.
[Cr. No.55 of 2013]

2. The District Collector,
The Collectorate,
Pudukottai District.

3. K. Ganesan
Additional Public Prosecutor,
Additional Assistant Sessions Court,
Pudukottai,
Pudukottai District.

.. Respondents

PRAYER: -This Writ petition has been filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus directing the



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2nd respondent to appoint a Special Public Prosecutor to conduct a case in S.C. No.98 of 2023 pending on the file of the Additional Assistant Sessions Judge, Pudukottai on the basis of the petitioner's representation dated 11.11.2024 within the time stipulated by this Court.

For Petitioner : Mr.C. Arul Vadivel @ Sekar,
Senior Counsel
For Mr. O.R. Gokul Abimanyu

For Respondents : Mr. M. Vaikkam Karunanithi,
Government Advocate
(Criminal side) [for R1]

Mr. M. Senthil Ayyinar,
Government Advocate
(Civil side) [for R2]

Mr. D. Ramesh Kumar [for R3]

ORDER

The Writ petition has been preferred to direct the 2nd respondent to appoint a Special Public Prosecutor to conduct a case in S.C. No.98 of 2023 pending on the file of the learned Additional Assistant Sessions Judge, Pudukottai based on the representation of the petitioner dated 11.11.2024.

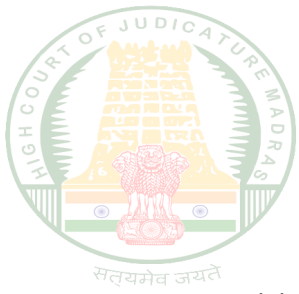


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2. According to the petitioner, he is the defacto complainant in the pending Sessions case in S.C. No.98 of 2023 on the file of the learned Additional Assistant Sessions Judge, Pudukottai and now the case is posted for trial. During the trial proceedings, the learned Additional Public Prosecutor failed to mark some documents and he has not conducted the case effectively. Therefore, the defacto complainant filed a petition to assist the prosecution before the trial Court under Section 18(8) of B.N.S.S., but the Advocate, who assisted the prosecution has only a limited role. Therefore, he sent a representation to the District Collector, the 2nd respondent herein dated 11.11.2024 for appointment of a Special Public Prosecutor, but no action was taken. Therefore, the present petition has been filed.

3. The learned counsel appearing for the respondents would submit that already all the witnesses were examined and now the case is posted for arguments. At this stage, this petition has been filed. However, the main case itself was disposed of, while pendency of this



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petition. The petitioner also filed a Crl. O.P. (MD) No.21484 of 2024 as against the dismissal order passed by the trial Court in recalling the witnesses, where this Court granted stay from pronouncing the judgment. However, the trial Court pronounced judgment by acquitting the accused. Thereafter, this Court passed an interim order not to give effect to the acquittal order. Therefore, this petition may be decided along with pending Crl. O.P. (MD) No.21484 of 2024, as this petition is subject to the outcome of the result of the petition in Crl. O.P. (MD) No.21484 of 2024.

4. This Court heard both sides and perused the entire materials available on record.

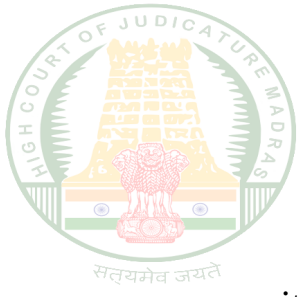
5. The grievance of the petitioner is that he is the defacto complainant in this case and the learned Additional Public Prosecutor has not conducted the case in a proper manner and failed to mark some documents and failed to conduct the case effectively. The petitioner himself admitted that already he filed an application to assist the



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Prosecution through a counsel and the same was also allowed. However, filed the present petition. Already the prosecution filed a petition before the trial Court in CrI. M.P. No.5 of 2024 in S.C. No.98 of 2023 for recalling the witnesses and the same was dismissed. As against which, a Criminal Original Petition in CrI. O.P. (MD) No.21484 of 2024 was filed by the petitioner and that petition was also heard along with this Writ petition.

6. This Court after perusing the entire records, came to a conclusion that the copy of the order of interim stay has not been communicated to the trial Court and only admission orders passed in the CrI. O.P. (MD) No.21484 of 2024 and W.P. (MD) No.29514 of 2024 were alone brought to the knowledge of the trial Court, where no order of interim stay was granted. Whereas the order of interim stay was granted by this Court in CrI. M.P. (MD) No.13312 of 2024 in CrI. O.P. (MD) No. 21484 of 2024, but that order was not produced before the trial Court. Therefore, the trial Court has pronounced judgment. Already this Court granted liberty to the petitioner to prefer an appeal as against the



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acquittal judgment passed by the trial Court in the manner known to law.

As on date, the main case is not pending and the same was disposed of.

Therefore, the question of appointment of Special Public Prosecutor to conduct the case in S.C. No.98 of 2023 would not arise. In view of the same, the present Writ petition is closed.

29.07.2025

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index: Yes/No

Internet: Yes/No

Speaking/Non Speaking order

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P.DHANABAL,J

mjs

To

1. The Inspector of Police,
Thanjavur Medical College Police Station,
Thanjavur District.
[Cr. No.55 of 2013]

2. The District Collector,
The Collectorate,
Pudukottai District.

Pre-delivery Judgment in
W.P. (MD) No.29514 of 2024

29.07.2025
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