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W.P.Crl.(MD) No.1992 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	12.11.2025
Pronounced on	25.11.2025

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

W.P.Crl.(MD) No.1992 of 2025

and

W.M.P.Crl.(MD) No.476 of 2025

Karthika

... Petitioner

Vs.

1.The State of Tamil Nadu rep. by
The District Collector,
Office of the District Collector,
Theni District.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Theni District.

3.The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Theni Sub Division, Theni District.

4.The Inspector of Police,
All Women Police Station,
Andipatti, Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the entire records connected with the impugned Letter in இ.கோப்பு எண்:



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6882/2024/ஈ1 dated 26.08.2025 issued by the first respondent and quash the same as illegal and consequently direct the first respondent to appoint Mr.Chinnaraj, B.A., B.L., (M.S.No.418/1980), Advocate, Madurai District as Special Public Prosecutor for conduct the case in Spl.S.C.No.58 of 2022 pending on the file of the Special Court for Exclusive Trial of SC/ST (POA) Act cases, Theni, as per Rule 4(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1995 in accordance with law, within the time stipulated by this Court.

For Petitioner : Mr.R.Mani Bharathi
for Dr.R.Alagumani

For R1 : Mr.N.Ramesh Arumugam
Government Advocate (Civil Side)

For R2, R3 & R4 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned letter in இ.கோப்பு எண்:6882/2024/ஈ1 dated 26.08.2025 issued by the first respondent, quashing the same as illegal and consequently directing the first respondent to appoint Mr.Chinnaraj, B.A., B.L. (M.S. No. 418/1980), Advocate, Madurai District, as Special Public Prosecutor to conduct the case in Spl.S.C.No.58 of 2022 pending on the file of the



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Special Court for Exclusive Trial of SC/ST (POA) Act Cases, Theni, as per Rule 4(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, in accordance with law, within the time stipulated by this Court.

2. The learned counsel for the petitioner would submit that the reason assigned in the impugned order for not appointing Mr.Chinnaraj as Special Public Prosecutor, namely that an FIR was pending against him in Crime No.1554 of 2018 on the file of the Inspector of Police, Sellur Police Station for the offences punishable under Sections 147, 148, 342, 294(b), 324 and 506(ii) of the Indian Penal Code, 1860, which arise out of a matrimonial dispute, cannot be sustained, as this Court had entertained the quash petition filed challenging the said FIR and granted stay of the said proceedings; and that under Rule 4(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, the victim can request an eminent Senior Advocate for conducting cases in the Special Courts, who should be appointed as Special Public Prosecutor in the case, and hence, the impugned order is liable to be set aside and the respondents may be directed to appoint Mr.Chhinnaraj as Special Public Prosecutor.



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3. The learned Additional Public Prosecutor for the second to fourth respondents would submit that, pursuant to the impugned order, another order was passed on 30.10.2025 appointing the Additional Public Prosecutor for the Additional District Court (Fast Track Court), Theni, as the Special Public Prosecutor in this case; and that such appointment would be sufficient compliance of Rule 4(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, and therefore, the impugned order may not be quashed.

4. Rule 4(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 reads as follows:

“4. Supervision of prosecution and submission of report –

(1)

.....

(5) Notwithstanding anything contained in sub-rule (1), the District Magistrate or the Sub-Divisional Magistrate may, if deem necessary or if so desired by the victims of atrocity, engage an eminent Senior Advocate for conducting cases in the Special Courts on such payment of fee as he may consider appropriate.”

5. The learned counsel for the petitioner relied upon the following orders passed by this Court:



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- i. **Somalaiappan v. Palanisamy and others**, dated 25.09.2013, in Crl.O.P.No.22043 of 2013.
- ii. **R.Kandasamy v. The District Collector, Salem District**, dated 25.09.2013, in Crl.O.P.No.9288 of 2013.
- iii. **N.Subburaj v. The District Collector, Dindigul District**, dated 19.02.2016, in W.P.(MD) No.246 of 2016.

6. In the above cases, this Court had directed the State to appoint counsel of the victim's choice as Special Public Prosecutor in their respective cases, in terms of Rule 4(5) of the said Rules. In **Somalaiappan** case [cited *supra*], there is a reference to the judgment of the Hon'ble Division Bench of this Court in **Smt. Sakti Devi and another v. Tikam Singh and others**, reported in 2006 Cri.L.J. 4721. In the said case, the Hon'ble Division Bench has elaborately considered the scope and object of Rule 4(5) of the said Rules. The observations made by the Hon'ble Division Bench of this Court would be binding on this Court. The relevant paragraphs of the said judgment are extracted hereunder for better understanding of the findings of the Hon'ble Division Bench of this Court:

“28. The State no doubt is the prosecutor and the prosecution in all cases and trial in all cases is to be conducted in the Court of Session by Public Prosecutor or Special Public Prosecutor, as the case may be, appointed by the Government, but the SC & ST Act is a special statute which overrides any other law for the time being in force.



29. *We do not find any conflict between sub rule (5) and Rule 4 and Section 15 of the Act. As indicated above whether the Public Prosecutor is specified or an advocate is appointed under Section 15 of the Act or an eminent senior advocate is engaged under Rule 4(5), these appointments or engagements are for the purpose of conducting cases in Special Courts. The observation of the learned Single Judge that sub rule (5) of Rule 4 is limited to implementing the Act framed in the context of Section 21(2)(iv) does not appear to be correct. We are conscious of the fact that sub rule (5) is part of the Rule captioned as single 'supervision of prosecution and submission of report' – referred to in clause (iv) of sub section (2) of Section 21. However on a combined reading of a rule, it is manifest that while sub rules(1) to (4) contain provisions regarding supervision of prosecutions through panel prepared under sub-rule(1) and review of the performance of the prosecutors borne on the panel, sub rule (5) is an independent provision with a non-obstante clause. Rules are always framed for effective implementation of the Act, but if sub rule(5) is given a restricted meaning and it is held that the authority of the advocate engaged by the District Magistrate to conduct case is limited to assisting the Public Prosecutor as a second fiddle, it would frustrate the object of sub rule (5) as it would deny the victim of atrocity the facility to have his case conducted by an advocate of his choice.*

30. *It is true that sub rule (5) does not laid down any qualification as to the minimum length of practice unlike Section 15 or sub rule (1) of Rule 4 but, apparently, framers of the Rule did not want to put any restriction and the choice of the victims of atrocity subject to the embargo that the person should be an 'eminent senior advocate' – a term used in sub rule (1) of Rule 4 as well. Thus the advocate should be of choice of the victim of atrocity and also in the opinion of the*



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District Magistrate/sub Divisional Magistrate, an eminent senior advocate."

7. In the above judgment, the Hon'ble Division Bench of this Court held that the Act is a special statute enacted to provide relief to victims of atrocities in the matter of trial of offences covered by the Act, and that Rule 4(5) of the said Rule confers a right upon the victim of an atrocity to have his case conducted by an advocate of his choice, so as to ensure that he has faith in the trial. The Hon'ble Division Bench has also held that though the State is the prosecutor, the SC/ST Act is a special statute which overrides any other law for the time being in force. Therefore, the Hon'ble Division Bench, in paragraph 30 extracted above, held that there cannot be any doubt that the victim has an option to have his case prosecuted by a lawyer of his choice. However, the said lawyer must be an eminent senior advocate in the opinion of the District Magistrate/Sub-Divisional Magistrate.

8. Therefore, this Court is of the view that it cannot be held that, in all cases, the victim's choice must be accepted by the District Magistrate or the Executive Magistrate, who has the right to reject the request if the lawyer suggested by the victim is not an eminent senior advocate in his



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opinion. The reason for vesting the discretion with the District Magistrate is not far to seek. The lawyer must play the role of the Special Public Prosecutor effectively. Public Prosecutor is not the victim's counsel. The role of the Public Prosecutor in a criminal case has been well defined and has been reiterated in several decisions of the Hon'ble Supreme Court. In **Deepak Aggarwal v. Keshav Kaushik and others**, reported in (2013) 5 SCC 277, the Hon'ble Supreme Court has held as follows:

“81. In India, the role of Public Prosecutor is no different. He has at all times to ensure that an accused is tried fairly. He should consider the views, legitimate interests and possible concern of witnesses and victims. He is supposed to refuse to use evidence reasonably believed to have been obtained through recourse to unlawful methods. His acts should always serve and protect the public interest. The State being a prosecutor, the Public Prosecutor carries a primary position. He is not a mouthpiece of the investigating agency. In Chapter II of the BCI Rules, it is stated that an advocate appearing for the prosecution of a criminal trial shall so conduct the prosecution that it does not lead to conviction of the innocent; he should scrupulously avoid suppression of material capable of establishing the innocence of the accused”

9. The Special Public Prosecutor, therefore, can neither be the mouthpiece of the investigating officer nor that of the victim. His role is only to assist the Court effectively and fairly. All his actions must be in



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the public interest and only to further the ends of justice. It is needless to say that the role of the Public Prosecutor cannot be any different in cases under the SC/ST Act also. Therefore, this Court is of the view that the victim's choice of a lawyer can be accepted only if the District Magistrate is of the opinion that the said lawyer is an 'eminent senior advocate'.

10. In the impugned order, the request of the petitioner was rejected as an FIR is pending against him in Crime No.1554 of 2018 on the file of the Inspector of Police, Sellur Police Station, for offences punishable under Sections 147, 148, 342, 294(b), 324 and 506(ii) of the Indian Penal Code, 1860. Therefore, the District Collector was of the view that he cannot be considered an eminent senior advocate.

11. Hence, this Court finds no infirmity in the impugned order, as the opinion of the District Collector cannot be substituted by any opinion of this Court, unless it is arbitrary, perverse or suffers from the application of mind.

12. During the course of hearing, the learned Additional Public



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Prosecutor produced a copy of the order dated 30.10.2025, by which the Additional Public Prosecutor for the Additional District Court (Fast Track Court), Theni, was appointed as the Special Public Prosecutor in this case. It appears that the same has not been communicated to the petitioner so far. If the petitioner is satisfied with such appointment, she may accept the order or if she is aggrieved, she is at liberty to challenge the said order in the manner known to law.

13. With the above observations, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Index: Yes/ No

Neutral Citation: Yes / No

Copy To:

- 1.The District Collector,
Office of the District Collector,
Theni District.
- 2.The Superintendent of Police,
Office of the Superintendent of Police,
Theni District.
- 3.The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,



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Theni Sub Division, Theni District.

- 4.The Inspector of Police,
All Women Police Station,
Andipatti, Theni District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

JEN

Pre-Delivery Order made
in
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