



WEB COPY

W.P.Nos.16519, 16744, 18323, 19079 and 19281 of :



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 19.09.2024

DELIVERED ON: 20.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE P.B. BALAJI

W.P.Nos.16519, 16744, 18323, 19079 and 19281 of 2024 (5 WPs)
and
W.M.P. Nos.18109 and 12397 of 2024 (2 WMPs)

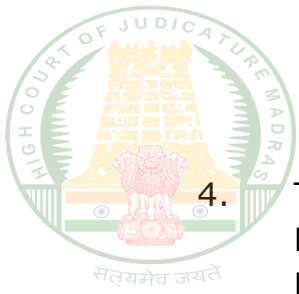
W.P.No.16519 of 2024:

S. Inbadurai

Petitioner

vs.

1. The Chief Secretary
Government of Tamil Nadu
Fort St. George
Chennai 600 009
2. The Home Secretary
Government of Tamil Nadu
Fort St. George
Chennai 600 009
3. The Principal Secretary
Department of Health and Family Welfare
Government of Tamil Nadu
Fort St. George
Chennai 600 009



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4. The Director General of Police
Dr. Radhakrishnan Salai
Mylapore, Chennai 600 004
5. The District Collector
Kallakurichi District
Kesavalu Nagar
V.O.C. Nagar, Kallakurichi
Tamil Nadu 606 202
6. The Superintendent of Police
Kallakurichi District
Kalaivani Nagar
Kottaimedu
Kallakurichi, Tamil Nadu 606 202
7. The Director
Central Bureau of Investigation
Plot No.5-B, VI Floor, CGO Complex
Lodhi Road
New Delhi 110 003
8. The Director
Tamil Nadu Medical and Rural Health Services
DMS Complex
361, Anna Salai
Chennai 600 006

Respondents

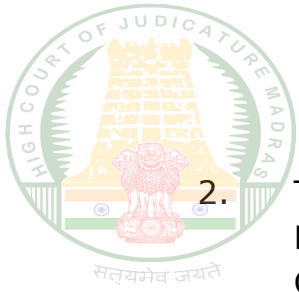
W.P.No.16744 of 2024:

K. Balu

Petitioner

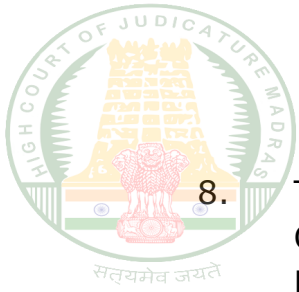
vs.

1. The State of Tamil Nadu
Represented by the Chief Secretary
Government of Tamil Nadu
Fort St. George
Chennai 600 009



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2. The Principal Secretary to Government
Home, Prohibition & Excise Department
Government of Tamil Nadu
Fort St. George
Chennai 600 009
3. The Principal Secretary to Government
Department of Health and Family Welfare
Government of Tamil Nadu
Fort St. George
Chennai 600 009
4. The Director General of Police
Head of Police Force
Dr. Radhakrishnan Salai
Mylapore
Chennai 600 004
5. The Additional Director General of Police
Prohibition Enforcement Wing
DGP Office Complex
New Building Annexe B
Kamarajar Salai
Mylapore
Chennai 600 004
6. The District Collector
Kallakurichi District
Kesavalu Nagar
V.O.C. Nagar
Kallakurichi 606 202
7. The Superintendent of Police
Kallakurichi District
Kalaivani Nagar
Kottaimedu
Kallakurichi
Tamil Nadu 606 202



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8. The Director
Central Bureau of Investigation
No.26, III Floor, Haddows Road
Shastri Bhavan
Chennai 600 006

9. The Deputy Superintendent of Police
CB-CID
Kallakurichi District

Respondents

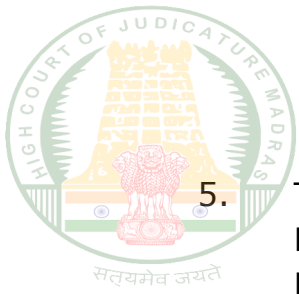
W.P.No.18323 of 2023:

A. Mohan Doss

Petitioner

VS.

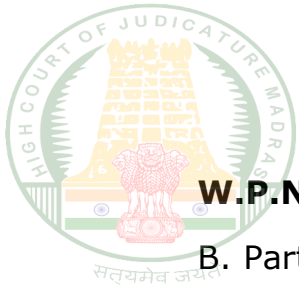
1. The State of Tamil Nadu
represented by the Chief Secretary
Fort St. George
Chennai 600 009
2. The Principal Secretary to Government
Home, Prohibition & Excise Department
Government of Tamil Nadu
Fort St. George
Chennai 600 009
3. The Principal Secretary to Government
Department of Health & Family Welfare
Government of Tamil Nadu
Fort St. George
Chennai 600 009
4. The Director General of Police
Dr. Radhakrishnan Salai
Mylapore
Chennai 600 004



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5. The Additional Director General of Police
Prohibition Enforcement Wing
DGP Office Complex
New Building Annexe B
Kamaraj Salai
Mylapore
Chennai 600 004
6. The District Collector
Kallakurichi District
Kesavalu Nagar
V.O.C. Nagar
Kallakurichi 606 202
7. The Superintendent of Police
Kallakurichi District
Kalaivani Nagar
Kottaimedu
Kallakurichi 606 202
8. The Director
Central Bureau of Investigation
Plot No.5-B, VI Floor CGO Complex
Lodhi Road
New Delhi 110 003
9. The Joint Director and Head of Zone
Central Bureau of Investigation
III Floor EVK Sampath Building
College Road
Chennai 600 006
10. The Deputy Superintendent of Police
CB-CID
Kallakurichi District 606 202

Respondents



W.P.No.19079 of 2024:

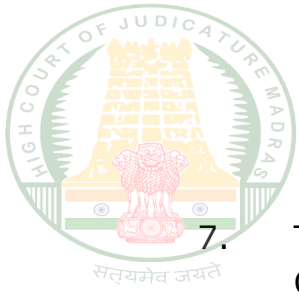
B. Parthasarathy

Petitioner

vs.

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1. The Chief Secretary
Government of Tamil Nadu
Fort St. George
Chennai 600 009
2. The Home Secretary
Government of Tamil Nadu
Fort St. George
Chennai 600 009
3. The Principal Secretary
Department of Health & Family Welfare
Government of Tamil Nadu
Fort St. George
Chennai 600 009
4. The Director General of Police
Dr. Radhakrishnan Salai
Mylapore
Chennai 600 004
5. The District Collector
Kallakurichi District
Kesavalu Nagar
V.O.C. Nagar
Kallakurichi
Tamil Nadu 606 202
6. The Superintendent of Police
Kallakurichi District
Kalaivani Nagar
Kottaimedu
Kallakurichi
Tamil Nadu 606 202



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7. The Director
Central Bureau of Investigation
Plot No.5B, VI Floor
CGO Complex
Lodhi Road
New Delhi 110 003

8. The Director
Tamil Nadu Medical and Rural Health Services
DMS Complex
361, Anna Salai
Chennai 600 006

Respondents

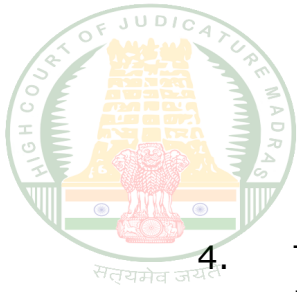
W.P.No.19281 of 2024:

Dr. A.Sridharan

Petitioner

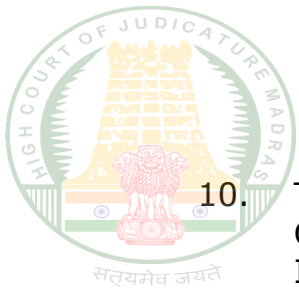
vs.

1. The State of Tamil Nadu
represented by the Chief Secretary
Government of Tamil Nadu
Secretariat
Fort St. George
Chennai 600 009
2. The Principal Secretary to Government
Home, Prohibition & Excise Department
Government of Tamil Nadu
Secretariat
Fort St. George
Chennai 600 009
3. The Principal Secretary to Government
Health & Family Welfare Department
Government of Tamil Nadu
Fort St. George
Secretariat
Chennai 600 009



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4. The Commissioner of Prohibition and Excise
II Floor, Ezhilagam Building
Chepauk
Chennai 600 005
5. The Director General of Police
Head of Police Force
Dr. Radhakrishnan Salai
Mylapore
Chennai 600 004
6. The Additional Director General of Police
Prohibition Enforcement
DGP Office Complex, New Building
Annexe B, Kamarajar Salai
Mylapore
Chennai 600 004
7. The Additional Director General of Police
(Intelligence)
State Intelligence Wing
DGP Office Complex, New Building, Annexe B
Kamarajar Salai
Mylapore
Chennai 600 004
8. The District Collector
Kallakurichi District
Kesavulu Nagar
V.O.C. Nagar
Kallakurichi 602 202
9. The Superintendent of Police
Kalaivani Nagar
Kottaimedu
Kallakurichi 606 202



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10. The Joint Director and Head of Tamil Nadu Zone
Central Bureau of Investigation
III Floor, E.V.K. Sampath Building
College Road
Chennai 600 006

11. The Deputy Superintendent of Police
CB-CID
Kallakurichi District
Kallakurichi 606 202

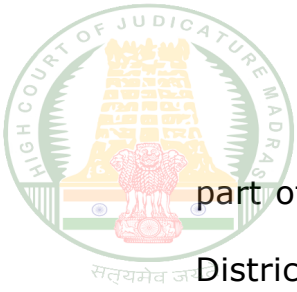
Respondents

Prayer in W.P.No.16519 of 2024:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1,2 and 4 to transfer and hand over the investigation to the seventh respondent, the CBI, and also to direct the seventh respondent to investigate the crime/offence, sale of illicit arrack by unknown accused person which resulted in the death of 37 people in Kallakurichi District, Tamil Nadu.

Prayer in W.P.No.16744 of 2024:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to constitute a Special Investigation Team (SIT) or transfer the entire investigation to the eighth respondent in respect of Kallakurichi illicit arrack – hooch tragedy from the ninth respondent for detailed investigation and consequently, direct the respondents 1 to 5 to fix responsibility on the



part of the officers who are responsible for this incident in Kallakurichi District.

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Prayer in W.P.No.18323 of 2024:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the tenth respondent to transfer and hand over the investigation involved in the Kallakurichi illicit arrack incident to the eighth and ninth respondents, the Central Bureau of Investigation.

Prayer in W.P.No.19079 of 2024:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1,2 and 4 to transfer and hand over the investigation to the seventh respondent, the Central Bureau of Investigation, and also direct the seventh respondent to investigate the crime/offence, sale of illicit arrack by unknown accused person which resulted in the death of 62 people in Kallakurichi District, Tamil Nadu.



Prayer in W.P.No.19281 of 2024:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the 11th respondent to transfer and hand over the investigation instituted in Kallakurichi hooch tragedy to the tenth respondent, the Central Bureau of Investigation and directing the first respondent to invoke the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

For petitioner in
W.P.No.16519 of 2024

Mr. V. Raghavachari, Sr. Counsel
for Mr. D. Selvam

For petitioner in
W.P.No.16744 of 2024

Mr.N.L. Rajah, Sr. Counsel
for Mr.R. Elavarasan

For petitioner in
W.P.No.19281 of 2024

Mr.G.S. Mani

For petitioner in
W.P.No.18323 of 2024

Mr. Elephant G. Rajendran

For petitioner in
W.P.No.19079 of 2024

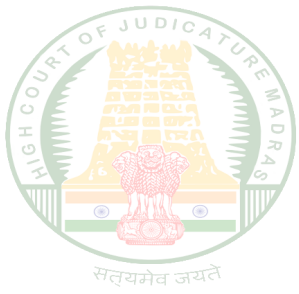
Mr. S. Janarthanan

For Chief Secretary, Home
Secretary and District
Collector, Kallakurichi, in all
WPs

For D.G.P. and
Superintendent of Police,
Kallakurichi District in all
WPs

For CBI in all WPs

Mr.P.S. Raman, Adv. General
assisted by
Mr.A.Edwin Prabakar
State Government Pleader
Mr. Hasan Mohamed Jinnah
State Public Prosecutor
assisted by Mr. R. Muniyappa Raj
Additional Public Prosecutor
assisted by Mr. M. Sylvester John
Mr. K. Srinivasan
Special Public Prosecutor



COMMON ORDER

D. KRISHNAKUMAR, J.

The issue involved in these writ petitions filed in the form of public interest litigation being common, these writ petitions will be governed by this common order.

2. Though the reliefs sought in this batch of five writ petitions have been worded differently, the gist of the relief sought in all these five writ petitions is, transfer of investigation of the much talked about crime/offence of sale of illicit arrack in Kallakurichi District, from the file of the CB-CID, Kallakurichi, to the file of the Central Bureau of Investigation ("the CBI" for short), Chennai, and for a direction to the CBI to conduct a detailed investigation in the said case to bring the offenders to book.

3. In addition to the aforesaid general relief, W.P. No.16744 of 2024 has been filed for a further relief of a direction to the respondents 1 to 5 to fix responsibility on the part of the officers who are responsible for this incident in Kallakurichi District.



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4. Likewise, W.P.No.19281 of 2024 has been filed for a further relief of a direction to the first respondent/State to invoke the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("the SC/ST Act" for short).

5. At the outset, given the issue involved for consideration, we feel it apropos to allude to the following famous quote of Mahatma Gandhi, which will throw much light on the ill-effect of vice of drinking on the society:

".....The drink habit destroys the soul of man and tends to turn him into a beast, incapable of distinguishing between wife, mother and sister. I have seen men who forget this distinction under the influence of liquor....."

It will be only in the fitness of things to point out here that even our Tamil saint Tiruvalluvar has dedicated an adikaaram (chapter comprising ten couplets) in his *magnum opus* Thirukkural. Such is the ill-effect of drinking on the mankind.

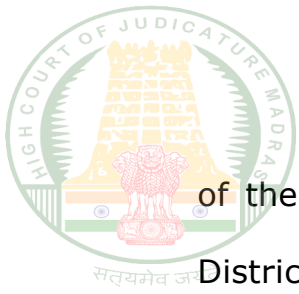
6. Though it has been stated in the opening paragraph of this order about the commonality of the issue involved in these five cases, for better appreciation, it is worth going into the facts of each case succinctly, though not in great detail. While venturing into this exercise, this Court is conscious of the fact that most of the grounds



urged in these writ petitions are akin and hence, repetition of those facts, at the cost of verbosity, has become unavoidable.

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7. Coming to W.P.No.16519 of 2024, the petitioner is a former M.L.A. of Radhapuram Constituency. His case is that owing to the illegal sale of illicit arrack by one Kannukkutti @ Govindaraj in Kallakaruchi District, on 19.06.2024, over 20 people were hospitalized, out of whom, five had died and subsequently, the number of persons admitted to hospital increased and so also, the death rate; the said Kannukkutti has been carrying on this illegal activity thanks to the support extended by Government officials and local politicians; in fact, in 2023, in the neighbouring district of Villupuram, in Marakkanam Village, similar incident had happened in which 17 innocent persons lost their lives; likewise, in Maduranthakam in Chengalpattu District also, 5 persons died due to consumption of illicit arrack; notwithstanding these incidents, the Government have not learnt a lesson; albeit the fact that Mr. Senthil Kumar, MLA of Kallakurichi Constituency had given a complaint, the Superintendent of Police, Kallakurichi, failed to take steps and his attempt to move a Call Attention Motion on the Floor of the House by addressing a letter dated 29.03.2023 to the Hon'ble Speaker seeking to curb sale of illicit liquor and ganja in Kallakurichi District also proved futile; though the cause



of the deaths is attributable only to consumption of illicit arrack, the District Collector, Kallakurichi, on 19.06.2024, in a Press Meet, stated that consumption of illicit arrack cannot be the solitary cause for the death, only in order to protect the erring officials; though Article 47 of the Constitution of India empowers the State to protect its masses from consuming illicit liquor, the State machinery has miserably failed in this regard; and hence, this writ petition.

8. Coming to W.P.No.16744 of 2024, it has been filed by the President of the Advocates' Forum for Social Justice. The petitioner's case is that on 19.06.2024, the news of consumption of illicit arrack in Karunapuram Village in Kallakurichi District took the entire State by shock, which led to loss of 3 lives initially, which gradually increased to 27 persons, upto a certain period, and also admission of more than 169 persons to hospitals; this is because, rural areas often have less strict enforcement of alcohol production and distribution laws.

9. It is the further case of the petitioner that the Chief Secretary has stated that 10 persons have been arrested in connection with hooch tragedy and murder and the kingpin behind this, viz., Kannukutty @ Govindaraj, has been apprehended and over 2,000 police personnel have been deployed in Kallakurichi to manage the



situation; the Superintendent of Police, Kallakurichi, has been suspended and the District Collector, Kallakurichi, has been transferred; a probe by the CB-CID has been ordered and a One Man Commission headed by Justice B. Gokuldas (Retd.) has been constituted to recommend to the Government as regards the measures to prevent recurrence of such incidents and also to go into the reasons for the death of people in Kallakurichi District in large numbers.

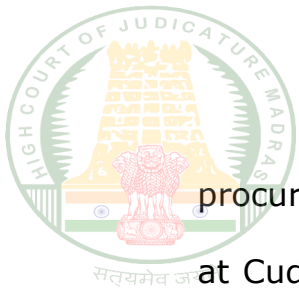
10. According to the petitioner, the statement made in the Press Meet by the District Collector, Kallakurichi, on 19.06.2024 to the effect that the initial death of one person is not owing to consumption of illicit arrack, but, due to other reasons, is false and it is only an attempt to cover up the lapses on the part of the Government.

11. The petitioner further submits that some of the accused have deposed that they purchased raw materials for the preparation of illicit liquor from the neighbouring Union Territory/States like Puducherry, Karnakata and Andhra Pradesh; further, since several politicians and Government officials, including police officials are hand in glove with the accused, this issue cannot be probed into effectively either by the State police or by the One Man Commission, but, only by an independent agency, viz., the CBI, which can impartially investigate



the matter to unearth the truth; in this regard, though the petitioner has addressed a representation dated 21.06.2024, no response is forthcoming and hence, this writ petition.

12. The petitioner in W.P.No.18323 of 2024 is an Advocate practising in this Court. According to him, though there is a prohibition on sale of illicit liquor pan State, manufacture, transportation, distribution and sale of the same is rampant in the districts like Chengalpattu and Villupuram, their epicenter being Kallakurichi; on 19.06.2024, the news in print and electronic media *qua* admission of several people from Karunapuram Village, Kallakurichi District, to hospitals owing to consumption of illicit arrack, which later increased to admission of 150 people to hospitals and death of at least 65 persons, shook the entire State; the mastermind behind the manufacture and sale of illicit arrack is one Kannukutty @ Govindaraj, who has been carrying on this trade for the last two and a half decades; though a similar incident happened in 2023 in Marakkanam Village in Villupuram District claiming the lives of 17 innocent people, the State has not learnt a lesson and has been turning only a Nelson's eye towards stopping manufacturing and selling of illicit arrack, especially, in Villupuram and Kallakurichi Districts; though the police claim that the main accused Kannukutti @ Govindaraj has been



procuring rectified spirit from Puducherry with the help of his relatives at Cuddalore and the sale of illicit liquor is not from brewing of alcohol from the nearby Kalvarayan Hills, it is to be noted that illegal liquor brewed from Kalvarayan Hills contains ingredients such as kadukkai (myrobalan), veppampattai (dried neem bark), rotten banana and grapes, urea and other items, which does not pose a serious threat; but, illicit liquor which is manufactured using methanol and sold in sachets, has the backing of the police and other officials of the State and consumption of this illicit liquor culminates in death of its users.

(emphasis supplied)

13. The main plank of the petitioner's contention is that the methanol-mixed illicit arrack is sold where the people belonging to SC/ST community reside and as a sequel, while users of illicit arrack lose their valuable lives, many suffer from physical handicap like deafness, dumbness, loss of vision and malfunctioning of internal organs.

14. The other stand of the petitioner is that the reason for the rampant sale of illicit liquor in Kallakurichi District by Kannukutti @ Govindaraj is the unholy nexus which he (Kannukutti @ Govindaraj) enjoys with the Government officials, including police, and politicians.



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The further contention of the petitioner is that though the case registered by the State police against Kannukutty @ Govindaraj for sale of illicit liquor in Chengalpattu and Villupuram Districts which claimed the lives of 22 persons, was transferred to the CB-CID, sale of illicit liquor has not been curbed till now; the statement made by the District Collector, Kallakurichi, in the Press Meet on 19.06.2024, to the effect that the reason for the tragic death on 19.06.2024 is not on account of consumption of illicit liquor alone, was only to protect the erring officials and the accused persons; unless the case with regard to hooch tragedy in Kallakurichi District is transferred to the CBI for a fair, transparent and unbiased investigation from the file of the CB-CID, the offenders cannot be brought to book and manufacture and sale of illicit arrack stopped; hence, this writ petition.

15. The petitioner has filed an additional affidavit dated 11.09.2024, *inter alia*, stating that the reason for the hooch tragedy in Kallakurichi is not owing to consumption of poisonous liquor, but, owing to consumption of illicit liquor and that extraction of illicit liquor has been going on in Kalvarayan hills for the last two decades.

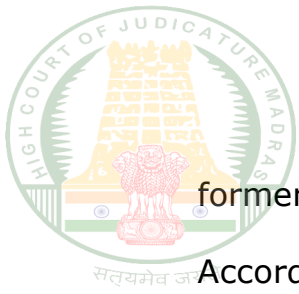
16. Coming to W.P.No.19079 of 2024, it has been filed by a former Member of the Legislative Assembly from Virugambakkam



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Assembly Constituency in the year 2011. Like the other writ petitioners, it is the case of this petitioner that on 19.06.2024, over 20 persons from Kallakurichi District were hospitalized owing to consumption of illicit arrack, out of whom, 5 lost their lives and gradually, the death toll rose to a whopping number of 62. According to the petitioner, Kalvarayan Hill area near Kallakurichi is the headquarters of this unscrupulous trade of illicit liquor, made using kadukkai (myrobalan), veppam pattai (neem bark), rotten fruits like bananas and grapes and urea and during midnights, illicit liquor is made freely available in that place; the main reason for the flourishing sale of illicit arrack in the State is the inaction on the part of the Government in this regard; the hooch tragedy in Kallakurichi is not the first of its kind; recently, in 2023, 17 people of Marakkanam Village in Villupuram District and 5 people of Madurantakam in Chengalpattu lost their lives; since hooch tragedy in the State has been a recurring phenomenon, the Kallakurichi hooch tragedy case has to be perforce transferred from the file of the CB-CID to the file of the CBI for an impartial, unbiased and transparent investigation into the matter; hence, this writ petition.

17. The last writ petition being W.P.No.19281 of 2024 has been filed by a doctor by profession with four decades of experience and a



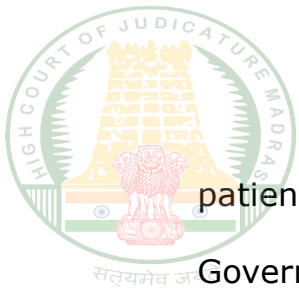
former MLA from Valparai Reserve Constituency from 1991-1996.

According to the petitioner, the 19.06.2024 hooch tragedy claiming 65 duntrodden lives could have been averted had the Government learnt a lesson from similar tragedies which happened in Madurantakam in Chengalpattu District and Marakkanam in Villupuram District in which 22 lives were lost. It is the specific case of the petitioner that as per the statement of the mother of the accused Kannukutty @ Govindarajan who is the kingpin behind the manufacture and sale of illicit arrack in Kallakurichi District, the accused Kannukutty @ Govindarajan has been procuring spurious liquor from brewing points and mixing lethal methanol to increase its potency, which act is not possible without the involvement of the police and Government officials, including the police. In short, the petitioner's case is that unless the Kallakurichi hooch tragedy case is transferred from the file of the CB-CID to the file of the CBI, hooch tragedy will be a recurring phenomenon, inasmuch as the CB-CID cannot conduct an impartial and transparent investigation and it is only the CBI which can conduct a fair investigation and unearth the truth to bring the offenders to book; hence, this writ petition.

18. The Chief Secretary to the Government has filed a common status report dated 02.07.2024 in W.P.Nos.16519 and 16744 of 2024,



inter alia, stating that at 03.45 a.m. on 19.06.2024, one Praveen of Karunapuram Village of Kallakurichi, who complained of symptoms of vomiting and abdominal pain, was treated as an out-patient and around 09.00 a.m., he was brought to the hospital as dead; likewise, later in the said morning, one unidentified person who was later identified as Suresh, also was brought dead to the hospital; when four more patients came to the hospital thereafter, the district administration took swift action and alerted the entire revenue staff about the multiple deaths in Karunapuram Village; the District Collector, Kallakurichi, who was in the midst of a programme styled "*Ungalai Thedi Ungal Ooril*" came to Kallakurichi Government Medical College and Hospital around 1.20 p.m. and instructed the doctors to take immediate steps to identify the root cause of the problem and also to arrange for additional resources; accordingly, a team of doctors was formed by the Dean and other doctors, staff nurses and other staff members in the vicinity were asked to come to the Kallakurichi Government Medical College and Hospital to tackle the crisis; thus, a total of 10 General Physicians, 5 Anesthetists, 6 General Surgeons, 12 doctors from the Department of Public Health and Preventive Medicine and Directorate of Medical Services, besides 20 expert doctors plunged into action; by that afternoon, it was found that the cause of the casualty was suspected to be methanol poisoning; when the number of



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patients kept soaring, the in-patients were moved to the nearby Government Hospitals in Puducherry, Villupuram and Salem; on the same day, Hon'ble Ministers for Highways and Health and Family Welfare arrived at Karunapuram to monitor the situation and also to assess the ground realities; on the next day, the Government announced a solatium of Rs.10 lakhs for the family of each deceased and Rs.50,000/- for those taking treatment; thus, the required medical treatment and financial assistance were extended in the best possible manner to the patients and the legal heirs of the deceased.

19. It is further stated in the status report that on 19.06.2024 itself, pursuant to the announcement made by the Hon'ble Chief Minister, the case in Kallakurichi P.S.Cr.No.417 of 2024 was transferred to the file of the CB-CID, Chennai, which was taken on file as Villupuram CB-CID Cr.No.2 of 2024 under Section 328 and 304(II) IPC and Sections 4(1)(1) and 4(1-A) of the Tamil Nadu Prohibition Act; further, in order to come to grips of the situation so that the matter could be dealt with effectively, the then Collector, the Additional Director General of Police and the Superintendent of Police, Enforcement, were transferred and on 19.06.2024, as many as nine police officials who include (i) Superintendent of Police, Kallakurichi, (ii) Deputy Superintendent of Police, Prohibition & Enforcement Wing,

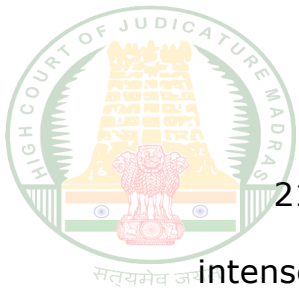


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Kallakurichi, (iii) Deputy Superintendent of Police, Thirukovilur Sub Division, (iv) Inspector, Prohibition and Enforcement Wing, Kallakurichi, (v) Inspector, Prohibition and Enforcement Wing, Thirukovilur, (vi) Circle Inspector, Kallakurichi, (vii) Sub Inspector, Prohibition Enforcement Wing, Thirukovilur, (viii) Sub Inspector of Police, Kallakurichi and (ix) Writer, Kallakurichi Police Station were placed under suspension.

20. The status report filed by the Chief Secretary further proceeds to state that an One Man Commission headed by Justice B. Gokuldas (Retd.) was constituted *vide* G.O. (Ms.) No.435, Public (L & O-F) Department dated 20.06.2024 with the following terms of reference:

- To inquire the causes and circumstances leading to the casualties due to consumption of arrack allegedly mixed with methanol on 19 and 20.06.2024 and fix responsibility;
- To suggest suitable preventive measures;
- To study existing rules and regulations and suggest modifications and inclusion of penal provisions for stringent enforcement; and
- To suggest measures for rehabilitation of affected families.



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21. It is further stated in the status report that within 5 days of intense investigation by the CB-CID, 6 retail sellers, 7 transporters and 8 suppliers and helpers were arrested and based on their confession, seizures, including 700 litres of contraband, were effected; they were also remanded to judicial custody and 132 witnesses were examined and their statements recorded.

22. The status report further proceeds to state that on the basis of mother cases, viz., Kallakurichi P.S.Cr.No.417 of 2024, Kachirapalayam P.S.Cr.No.250 of 2024 and Sankarapuram P.S.Cr.No.334 of 2024, the CB-CID, Villupuram, registered 3 cases in Cr.Nos.2 of 2024, 3 of 2024 and 4 of 2024, all under the provisions of IPC and the Tamil Nadu Prohibition Act; the investigation is being conducted by 6 separate CB-CID teams and 3 local police teams attached to the CB-CID and the same is under the surveillance of the Director General of Police, Additional Director General of Police (Enforcement), Inspector General of Police (Enforcement), Inspector General of Police (North Zone) and Inspector General of Police, CB-CID.

23. With regard to the death of some persons in Ekiyarkuppam Village in Villupuram District in May 2023 on account of consumption of

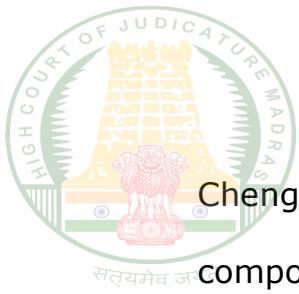


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diluted methylated spirit, it is stated in the status report that initially, a case was registered in Marakkanam P.S.Cr.No.225 of 2023 and given the sensitive nature of the case, the case was transferred to the CB-CID, which examined 206 witnesses and collected 118 documents, besides arresting 21 persons and even a final report was laid against 23 accused under the provisions of IPC and the Tamil Nadu Prohibition Act before the Chief Judicial Magistrate, Villupuram.

24. Likewise, with regard to the death of some persons in Perambakkam, Cheyyur Taluk, Chengalpattu District in May 2023 on account of consumption of diluted methylated spirit, it is stated in the status report that several cases registered at Chithamur Police Station were later transferred to the CB-CID, Kanchipuram and during investigation, 8 accused were arrested, 5 persons were detained under Act 14 of 1982 and 11 were charged under various provisions of IPC and the Tamil Nadu Prohibition Act; during investigation, 250 witnesses were examined and 75 documents were collected and a final report was laid before the Judicial Magistrate No.I, Chengalpattu.

25. The firm stand of the State in the status report is that, by no stretch of imagination, can it be said that the Kallakurichi incident is a sequel to the aforesaid incidents that took place in Villupuram and



Chengalpattu Districts, inasmuch as, in those two cases, the composition of methanol in the source samples was detected as 99.1%, whereas, the range of methanol composition of the samples obtained from Kallakurichi is from 8.6% to 29.7% only. In other words, the stand of the State in the status report is that aftermath the two incidents in 2023 in Villupuram and Chengalpattu Districts, the police have risen to the occasion pan State and as a result, 159 persons and 95 persons were arrested in the years 2023 and 2024 respectively.

26. With regard to the inaction on the part of the State pursuant to the alleged complaint made by Mr. M. Senthilkumar, MLA of Kallakurichi Constituency on the subject of illicit liquor being brewed in the area, it is stated in the status report that no such complaint was found in any of the police stations. It is further stated that later, information was received from the Legislative Assembly Secretariat that the said MLA had sought the permission of the Hon'ble Speaker to move a Call Attention Motion which was disallowed; when a Call Attention Motion is submitted and when it is disallowed, it does not come to the notice of the Government and this is what has exactly happened in the Kallakurichi hooch tragedy case too.

27. The further stand of the State is that as on 30.06.2024, though 67 had died, thanks to the effective treatment extended, the



lives of 145 patients have been saved and they have also been discharged from various hospitals.

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28. The status report further proceeds to state that when the district administration and police have started to act with utmost alacrity to tackle the situation and substantial progress has been made in the investigation conducted by the CB-CID, transfer of the Kallakurichi hooch tragedy case is unwarranted, inasmuch as, none of the well settled circumstances necessitating transfer of case to the CBI obtains in the case on hand.

29. While the status report discussed hitherto was filed by the Chief Secretary in W.P.Nos.16519 and 16744 of 2024, the Chief Secretary to the Government has filed a common status report dated 18.07.2024 in the remaining three writ petitions being W.P.Nos.18323, 19281 and 19079 of 2024.

30. With regard to the contention of the petitioner in W.P.No.19281 of 2024 as regards invoking the provisions of the SC/ST Act, it is stated in the status report dated 18.07.2024 that at the stage of registration of FIR in Villupuram CB-CID Cr.No.2 of 2024 (mother case Kallakurichi P.S.Cr.No.417 of 2024), no offence was found to have



been committed by a member of non Scheduled Caste or Scheduled Tribe against a member of Scheduled Caste or Scheduled Tribe.

Expatriating, it is further stated in the status report that, of the total number of 24 accused in the Kallakurichi hooch tragedy case, 10 belong to Scheduled Caste, 1 each belongs to Scheduled Tribe and OC, 10 belong to Most Backward Class, 2 belong to Backward Class and likewise, of the 67 who died in the incident, 8 belong to Scheduled Tribe, 32 belong to Scheduled Caste, 13 belong to Most Backward Class, 11 belong to Backward Class and 3 are Muslims; hence, the question of invoking the provisions of the SC/ST Act does not arise at all.

31. As regards the contention of the petitioner in W.P.No.18323 of 2024 that the National Human Rights Commission has issued notice to the Tamil Nadu Government in the matter of death caused in Villupuram and Chengalpattu Districts, it is stated in the status report that in the case of both the aforesaid incidents, a detailed reply was sent by the Principal Secretary to Government, Home, Prohibition and Excise Department on 08.06.2023 and that in the present case also, a detailed report has been sent on 01.07.2024 detailing the particulars of retail sellers, transporters, suppliers and helpers together with their caste details and also setting out the details of disciplinary action



taken against the police officials involved in the incident, together with the present stage of the disciplinary action.

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32. In reply to the contention of the petitioner in W.P.No.18323 of 2024 that though the investigation in the Marakkanam illicit liquor case was transferred to the file of the CB-CID, there has been no progress in the investigation, it is stated in the status report that 206 witnesses have been examined, 118 documents have been collected, 23 persons have been arrested and 8 persons have been detained under Act 14 of 1982 and this being the factual scenario post transfer of case to the CB-CID, the allegation levelled by the petitioner that the case needs to be transferred to the CBI is baseless and hence, deserves to be stated only to be rejected.

33. In response to paragraphs 6,9 and 10 to 12 of the affidavit in W.P.No.19281 of 2024 as regards the Government's role in eradicating illicit arrack, it is stated in the status report that the sale of alcohol is being regulated through the Tamil Nadu State Marketing Corporation (TASMAC), through which, liquor is sold as per the standards prescribed by the Food Safety and Standards Authority of India (FSSAI) and by this, it is also ensured that TASMAC is the single source for retail sale of liquor, which has helped, to a great extent, in



restricting the sale of illicit liquor. The State's further stand in this regard is that, in fact, by adopting the policy of centralized liquor sale, the State manages to achieve a safer and more controlled environment for alcohol consumption.

34. Countering the stand of the petitioner in W.P.No.18323 of 2024 in paragraph 14.1 of the affidavit that due to the act of Kannukutty @ Govindaraj in selling methanol-mixed illicit arrack in connivance with the local police and politicians, majority of the people who have lost their lives and also suffered various ailments, belong to SC/ST and even young children, including one girl of 12 years of age pursuing her VI standard, have been affected, it is the specific and emphatic stand of the State that no girl aged 12 years and pursuing VI standard, as alleged, was ever admitted to any hospital and that the allegation that Kannukutti @ Govindaraj was selling methanol-mixed illicit arrack in connivance with politicians and local police is bald and sans any proof.

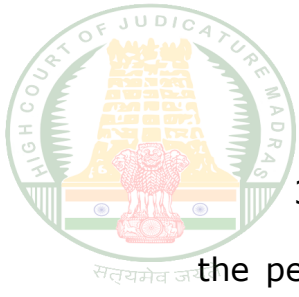
35. In the status report dated 18.07.2024, it is further stated that the State has sanctioned a cash relief of Rs.10 lakhs each to the legal heirs of 67 deceased persons, besides sanctioning Rs.20 lakhs to a family where both the parents had died and Rs.10 lakhs to a family



where one of the parents had died. In addition to the above, the status report further proceeds to narrate *in extenso*, the steps taken by the State to take care of the children of the deceased till they complete their graduation and the preference to be given to them in the Government welfare schemes.

36. While concluding, the status report proceeds to specify that from 20.06.2024, totally, 9,476 accused have been booked by the Prohibition Enforcement Wing and local police, out of whom, 98 were remanded to judicial custody, and 16,427 litres of distilled arrack, 12,256 litres of Pondy arrack, 53 litres of Andhra Pradesh illicit distilled arrack, 158 litres of rectified spirit, 36,481 litres of fermented wash (destroyed), 72,576 bottles of Tamil Nadu IMFL, 12,021 bottles of Pondy IMFL, 1,709 bottles of Karnataka IMFL, 158 bottles of military liquor, 17 bottles of foreign liquor and 3,550 litres of toddy have been seized in the State; that apart, 106 vehicles have been seized and 4 offenders have been detained as bootleggers under Tamil Nadu Act 14 of 1982.

37. The aforesaid two status reports dated 02.07.2024 and 18.07.2024 are taken on record.



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38. According to Mr. Elephant G.Rajendran, learned counsel for the petitioner in W.P.No.18323 of 2024, there is a world of difference between கள்ளச் சாராயம் (illicit liquor) and விஷச் சாராயம் (poisonous liquor); illicit liquor is not by brewing of alcohol in the Kalvarayan Hills, rather, illicit liquor has the ingredients such as kadukkai (myrobalan), veppampattai (dried neem bark), rotten fruits such as grapes and bananas and other items like urea, the consumption of which does not pose any serious problem, whereas, the prime accused in this case, viz., Kannukutty @ Govindarajan has been selling only methanol-laced arrack in sachets thanks to the backing by the police and politicians. In other words, the contention of the learned counsel for the petitioner is that without the unholy nexus which Kannukkuty @ Govindaraj has with the police and politicians, this illegal business cannot flourish. Further, according to the learned counsel, the State has not filed counter affidavit denying the averments made by the petitioner in the affidavit; instead, what the State has filed is only a status report, and in the absence of counter affidavit filed by the State, the allegations levelled in the affidavit are deemed to be admitted by the State. In short, according to the learned counsel, a fair and impartial investigation can be conducted only by the CBI and not by the CB-CID.



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39. Mr. N.L. Rajah, learned Senior Counsel appearing for the petitioner in W.P.No.16744 of 2024, drawing the attention of this Court to page no.49 of the typed set of papers, which is a copy of the complaint dated 21.06.2024 given by one Vijayalakshmi, W/o one Jayamurugan, a victim of the incident, submitted that it cannot be contended that the affected parties are not before this Court. He further submitted that though as on 23.06.2024, 57 persons, including 3 women have died due to consumption of illicit arrack, no records, as regards the stage of investigation, including the details of suspended police personnel, have been produced by the prosecution and that there is a risk of tampering of evidence. His further submission is that since the suspended police personnel may have their suspension revoked by hook or crook, they have to be transferred to other places. It is his contention that the reason for revocation of suspension should be divulged to the Court. According to the learned counsel, since many of the accused are habitual offenders, they are liable to be proceeded against and every citizen is entitled to know the action taken against them.

40. By inviting the attention of this Court to the typed set of papers filed by the learned Public Prosecutor himself, it is the contention of the learned Senior Counsel that from 01.01.2023 to

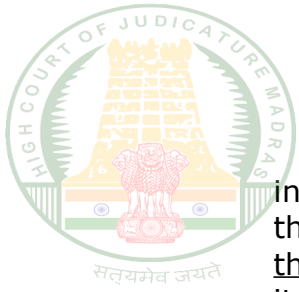


18.06.2024, 1,024 cases have been booked by the Prohibition Enforcement Wing and 878 cases have been booked by the local police and in all, 1,793 accused have been arrested, which would only reflect the magnitude of use of illicit liquor pan State. Further, according to him, though Kannukutti @ Govindarajan, the mastermind behind sale of illicit arrack, has been booked in as many as 31 cases, he has not been convicted in any of the cases.

41. While concluding his arguments, the learned Senior Counsel submitted that since this matter involves public health and safety, invoking the Evidence Act, the Court can very well take judicial notice of the same and take action against the accused.

42. To buttress his contention as regards transfer of investigation from the CB-CID to the CBI, Mr. N.L.Rajah, learned Senior Counsel relied on the judgment of the Supreme Court in **R.S. Sodhi, Advocate vs. State of U.P. and others [1994 Supp. (1) SCC 143]**, the relevant paragraph of which reads thus:

"2. We have examined the facts and circumstances leading to the filing of the petition and the events that have taken place after the so-called encounters. Whether the loss of lives was on account of a genuine or a fake encounter is a matter which has to be inquired into and investigated closely. We, however, refrain from making any observation in that behalf; we should, therefore, not be understood even remotely to be expressing any view thereon one way or the other. We have perused the events that have taken place since the



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incidents but we are refraining from entering upon the details thereof lest it may prejudice any party but we think that since the accusations are directed against the local police personnel it would be desirable to entrust the investigation to an independent agency like the Central Bureau of Investigation so that all concerned including the relatives of the deceased may feel assured that an independent agency is looking into the matter and that would lend the final outcome of the investigation credibility. However faithfully the local police may carry out the investigation, the same will lack credibility since the allegations are against them. It is only with that in mind that we having thought it both advisable and desirable as well as in the interest of justice to entrust the investigation to the Central Bureau of Investigation forthwith and we do hope that it would complete the investigation at an early date so that those involved in the occurrences, one way or the other, may be brought to book. We direct accordingly. In so ordering we mean no reflection on the credibility of either the local police or the State Government but we have been guided by the larger requirements of justice. The writ petition and the review petition stand disposed of by this order."

(emphasis supplied by us)

On the basis of these submissions, the learned Senior Counsel sought transfer of CB-CID Villupuram Cr.Nos.2 to 4 of 2024 to the file of the CBI.

43. Mr. P.S. Raman, learned Advocate General, at the outset, submitted that in connection with the case on hand, the first consumption of alcohol took place on 18.06.2024, due to which, the first victim was admitted to hospital at 3.45 a.m. on 19.06.2024 and immediately thereafter, the district administration and State police plunged into action and arrested 24 persons, 11 of whom have been booked under Act 14 of 1982 and 244 witnesses have been examined



by an investigation team headed by a senior police officer of the CB-CID of the rank of Deputy Superintendent of Police and thus, the investigation is almost complete and only serology and toxicology reports are awaited.

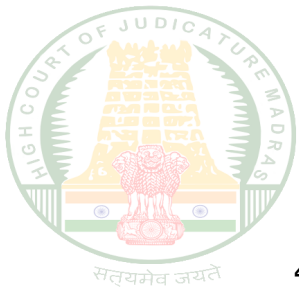
44. The learned Advocate General further submitted that in none of the police stations pan State, was any complaint filed by Mr.M.Senthilkumar, ex-MLA; in fact, Mr. Senthilkumar submitted only a Call Attention Motion on the Floor of the House which was disallowed by the Speaker and in fact, in the said Call Attention Motion, the complaint made was not the subject matter in issue, but, something else and there was only a passing reference, that too, in the form of a bald statement about the subject in issue. To drive home the point that the CB-CID has been leaving no stone unturned in the matter of investigation, the learned Advocate General submitted that the first consumption of illicit liquor had taken place on 18.06.2024; the first person succumbed to death on 19.06.2024; soon after receipt of a complaint by one Dinakaran, a case was registered in Kallakurichi P.S.Cr.No.417 of 2024 under various provisions of IPC and the Tamil Nadu Prohibition Act, which was transferred to the file of the CB-CID on the same day. Thus, according to the learned Advocate General, only after the death of the first person on 19.06.2024, it was found



that the death was owing to consumption of illicit liquor, soon after which, the Kallakurichi police registered a case which was transferred to the file of the CBI on the same day, as stated above.

45. As regards the outcome of investigation, it was submitted by the learned Advocate General that it was found that fermented wash and methanol were used for manufacturing illicit liquor and that the Investigating Officer and his team are only awaiting the serology and toxicology reports from the forensic sciences laboratory.

46. In response to the query posed by this Court as to why the first complaint was given only by a person admitted to a private hospital and not by any of the 20 and odd persons admitted to the Government Hospital, the learned Advocate General replied that the State was under the impression that it would have been due to food poisoning. He further submitted that owing to the failure on the part of the police in curbing the sale of illicit arrack, the State has acted with alacrity by suspending one Superintendent of Police, two Deputy Superintendents of Police, two Inspectors and one Sub Inspector from Prohibition and Enforcement Wing and one Circle Inspector have been suspended and later, the suspension of the Superintendent of Police was revoked and he was posted in a non-sensitive area.

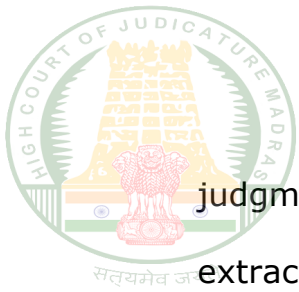


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47. The further submission of the learned Advocate General is that none of the petitioners has made out a case by naming the police official or politician or any other Government official with whom the prime accused is alleged to have unholy nexus and that based on such mere statement and without anything more, the cases do not deserve transfer to the file of the CBI and the instant writ petitions have been filed at a premature stage. He further submitted that when admittedly, the writ petitions have been filed by the main opposition parties, the Court will have to test whether the writ petitions are politically motivated and should not order transfer of the cases to the CBI on the mere *ipse dixit* of the petitioners, without anything more.

48. According to the learned Advocate General, now that the investigation has almost come to a close, no useful purpose would be served if the investigation is transferred to the CBI since the CBI will have to start its investigation from scratch.

49. In support of his contention that transfer of case to the file of the CBI has to be ordered only as a last resort and not routinely or mechanically at the mere asking of someone, that too, merely based on someone's *ipse dixit*, the learned Advocate General relied on some



judgments of the Supreme Court, the relevant portion of which are extracted for ease of reference:

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i. **K.V. Rajendran vs. Superintendent of Police, CB-CID South Zone, Chennai and others [(2013) 12 SCC 480]:**

"17. In view of the above, the law can be summarised to the effect that the Court could exercise its constitutional powers for transferring an investigation from the State investigating agency to any other independent investigating agency like CBI only in rare and exceptional cases. Such as where high officials of State authorities are involved, or the accusation itself is against the top officials of the investigating agency thereby allowing them to influence the investigation, and further that it is so necessary to do justice and to instil confidence in the investigation or where the investigation is prima facie found to be tainted/biased."

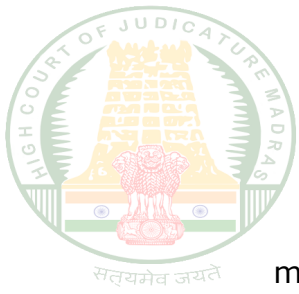
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ii. **Vishal Tiwari vs. Union of India and others [Manu SC 0005/2024]:**

"32. This Court does have the power Under Article 32 and Article 142 of the Constitution to transfer an investigation from the authorized agency to the CBI or constitute an SIT. However, such powers must be exercised sparingly and in extraordinary circumstances. Unless the authority statutorily entrusted with the power to investigate portrays a glaring, willful and deliberate inaction in carrying out the investigation the court will ordinarily not supplant the authority which has been vested with the power to investigate. Such powers must not be exercised by the court in the absence of cogent justification indicative of a likely failure of justice in the absence of the exercise of the power to transfer. The Petitioner must place on record strong evidence indicating that the investigating agency has portrayed inadequacy in the investigation or prima facie appears to be biased."

(emphasis supplied by us)

iii. **B.P. Singhal vs. State of Tamil Nadu and others [(2004) 13 SCC 673]**



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"2. Moreover, we find that the petition is lacking in material particulars. All the averments made in the petition are based, by and large, on news reports and not on personal knowledge. The petition does not state that the petitioner has taken any care to verify himself the correctness of the averments made. The copy of FIR or any other papers enabling formation of an opinion as to the averments forming subject-matter of investigation have not been brought on record. None of the accused persons, who would be vitally interested in the hearing and who would really be the persons affected, have been joined as party to the petition. On the contrary, vide list of dates (p. A of the petition), the petitioner alleges that he is not claiming any relief for the accused person."

iv. Mithilesh Kumar Singh vs. State of Rajasthan and others [(2015) 9 SCC 795]:

"12. Even so the availability of power and its exercise are two distinct matters. This Court does not direct transfer of investigation just for the asking nor is transfer directed only to satisfy the ego or vindicate the prestige of a party interested in such investigation. The decision whether transfer should or should not be ordered rests on the Court's satisfaction whether the facts and circumstances of a given case demand such an order. No hard-and-fast rule has been or can possibly be prescribed for universal application to all cases. Each case will obviously depend upon its own facts. What is important is that the Court while exercising its jurisdiction to direct transfer remains sensitive to the principle that transfers are not ordered just because a party seeks to lead the investigator to a given conclusion. It is only when there is a reasonable apprehension about justice becoming a victim because of shabby or partisan investigation that the Court may step in and exercise its extraordinary powers. The sensibility of the victims of the crime or their next of kin is not wholly irrelevant in such situations. After all transfer of investigation to an outside agency does not imply that the transferee agency will necessarily, much less falsely implicate anyone in the commission of the crime. That is particularly so when transfer is ordered to an outside agency perceived to be independent of influences, pressures and pulls that are commonplace when State Police investigates matters of some significance. The confidence of the party seeking transfer in the outside agency in such cases itself rests on the independence of that agency from such or similar other considerations. It follows that unless the Court sees any design



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behind the prayer for transfer, the same must be seen as an attempt only to ensure that the truth is discovered. The hallmark of a transfer is the perceived independence of the transferee more than any other consideration. Discovery of truth is the ultimate purpose of any investigation and who can do it better than an agency that is independent."

(emphasis supplied by us)

v. Royden Harold Buthello and another vs. State of Chhattisgarh and others [2023 LiveLaw SC 154]:

"19. Hence it is clear that though there is no inflexible guideline or a straightjacket formula laid down, the power to transfer the investigation is an extraordinary power. It is to be used very sparingly and in an exceptional circumstance where the Court on appreciating the facts and circumstance arrives at the conclusion that there is no other option of securing a fair trial without the intervention and investigation by the CBI or such other specialized investigating agency which has the expertise."

(emphasis supplied by us)

50. In support of his contention that news items published in newspapers are only hearsay and no judicial notice can be taken unless they are supported by further authentic evidence, the learned Advocate General relied on a judgment of a Coordinate Bench of this Court in **R.Krishnamurthy vs. The State of Tamilnadu and Ors. [MANU/TN/0997/2015]**, quoting with approval, a judgment of another Coordinate Bench of this Court in **A.S.M. Kumar v. State of Tamil Nadu 2008 (5) MLJ 399**, the relevant portion of which is as under:



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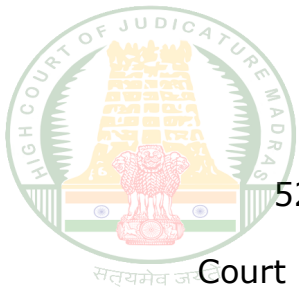
"It is now well settled that a news item published in the newspaper are only hearsay and no judicial notice can be taken unless supported by further authentic evidence. Though the parameters of public interest litigation have been indicated by the Supreme Court in large number of cases, yet unmindful of the real intentions and objectives, the petitioner, without verifying the authenticity or otherwise of the news items, has chosen to resort to the extraordinary jurisdiction. The Public Interest Litigation intended to ameliorate the grievance of the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated, should not be misused. Before maintaining a cause before the Court one should prove that there is concrete and credible basis, notwithstanding the credentials claimed of the person moving the courts."

(emphasis supplied by us)

51. In reply to the reliance placed by Mr.N.L. Rajah on the **R.S.Sodhi, supra, qua** transfer of cases to the CBI, the learned Advocate General invited the attention of this Court to the Constitution Bench judgment of the Supreme Court in **Padma Sundara Rao (dead) and others vs. State of Tamil Nadu (2002) 3 SCC 533**, wherein, it was held as under:

"9. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in *Herrington v. British Railways Board* [(1972) 2 WLR 537:1972 AC 877 (HL) [Sub nom *British Railways Board v. Herrington*, (1972) 1 All ER 749 (HL)]] Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases."

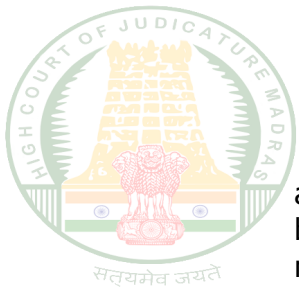
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52. Further, the learned Advocate General placed before this Court a copy of the additional investigation report filed by the Investigating Officer, viz, Deputy Superintendent of Police, CB-CID, I/c of Villupuram Range, wherein, *inter alia*, in addition to the involvement of the prime accused Kannukutty @ Govindaraj, it describes the involvement of one Madhesh of Puducherry and also the *modus operandi* of the said Madhesh in supplying mixed solvents, including the contacts the said Madhesh had established with the accused in Tamil Nadu in order to carry on this business.

53. In response to the argument of the State that these writ petitions have been filed at a premature stage, Mr. V. Raghavachari, learned Senior Counsel appearing for the petitioner in W.P.No.16519 of 2024, submitted that only with an intent that the evidence should not be tampered or destroyed, these writ petitions have been filed at the earliest point of time. By garnering support from paragraph nos.101 and 103 to 105 of a Coordinate Bench judgment of this Court in **J.Anbazhagan, M.L.A. vs. Union of India [(2018) 4 MLJ 129]**, which read as under, the learned Senior Counsel contended that the said case applies on all fours to the instant cases.

"101. In our considered view, the handing over of investigation to CBI only ensures a co-ordinated investigation, particularly in specified categories of serious offences having ramifications in more than one State. It neither casts any



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aspersion on the mode and manner of investigation conducted by the State Police or the State Vigilance authorities nor does it necessarily reflect any finding even prima facie of interference of any constitutional authority or any high official of the State Government in such investigation.

103. The proposition that transfer of investigation to CBI does not depend on finding of inadequacy in the investigation carried out by the State Police finds support from the judgment of the Supreme Court in *Subrata Chattoraj v. Union of India* and others, reported in MANU/SC/0453/2014 : (2014) 8 SCC 768.

104. It is well settled that justice should not only be done, but manifestly be seen to have been done. Justice is delivered not just by the Courts which adjudicate disputes and exercise powers of judicial review, but also by the Executive which administers the law. A fair and impartial investigation is an essential ingredient of delivery of justice and investigation should not only be fair and impartial, it should manifestly be seen to be fair and impartial.

105. Serious allegations, inter alia, against high police officials with regard to their complicity and connivance in the illegal business in gutkha and other forms of chewable tobacco, is likely to give rise to doubts in the minds of the general public with regard to the fairness, impartiality and/or efficacy of the investigation. It is, therefore, desirable that the investigation be made over to an independent agency like the CBI."

(emphasis supplied by us)

54. According to Mr. Raghavachari, in the aforesaid case, the Coordinate Bench of this Court relied upon the news report on the website edition of The Hindu and in the same way, in the instant cases too, the reporters of The Hindu had visited Kallukurichi and given a detailed report which can be taken cognizance of. Further, he made a pointed reference to paragraph no.100 of the aforesaid judgment and submitted that as held by the Supreme Court in **Bharati Tamang vs. Union of India [(2013) 14 SCC 578]**, even after charge sheet is

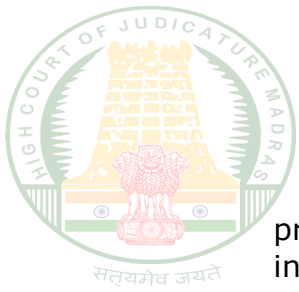


filed, investigation can be made over to the CBI, whereas, in the cases on hand, when admittedly no charge sheet has been filed, the cases can safely be made over to the CBI.

55. The learned Senior Counsel, to strengthen his argument *qua* making over of the case to the CBI, submitted that the Supreme Court has upheld the judgment of this Court in **J. Anbazhagan, supra**, in **E.Sivakumar vs. Union of India [(2018) 7 SCC 365]**.

56. Further reliance was placed by Mr. Raghavachari on the judgment of the Supreme Court in **Pooja Pal vs. Union of India [(2016) 3 SCC 135]**, wherein, it was held by the Supreme Court that even notwithstanding pendency of trial, the Trial Court is not powerless as per Sections 311 and 391 Cr.P.C. and Section 165 of the Evidence Act, to make over the case to the CBI. It is apropos to extract paragraphs 81,95, 100 and 101 of the said judgment for ease of reference:

“81. The judicially propounded propositions on the aspects of essentiality and justifiability for assignment of further investigation or reinvestigation to an independent investigating agency like CBI, whether or not the probe into a criminal offence by the local/State Police is pending or completed, irrespective of as well, the pendency of the resultant trial have concretised over the years, applicability whereof, however, is contingent on the factual setting involved and the desideratum for vigilant, sensitised and even-handed justice to the parties.



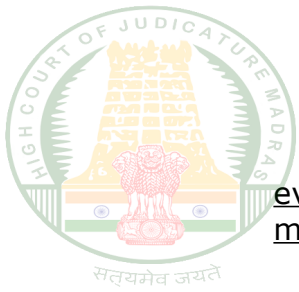
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95. Adverting to the role of the police to be one for protection of life, liberty and property of citizens, with investigation of offences being one of its foremost duties, it was underscored in *Manohar Lal Sharma v. Union of India* [*Manohar Lal Sharma v. Union of India*, (2014) 2 SCC 532 : (2014) 4 SCC (Cri) 1] that the aim of investigation is ultimately to search for truth and to bring the offender to book. The observations of Lord Denning in his rendering in *The Due Process of Law*, First Indian Reprint, 1993, p. 102 were alluded to as under : (SCC p. 553, para 25)

"25. ... 'In safeguarding our freedoms, the police play a vital role. Society for its defence needs a well-led, well-trained and well-disciplined force of police whom it can trust: and enough of them to be able to prevent crime before it happens, or if it does happen, to detect it and bring the accused to justice.

The police, of course, must act properly. They must obey the rules of right conduct. They must not extort confessions by threats or promises. They must not search a man's house without authority. They must not use more force than the occasion warrants."

100. The present factual conspectus leaves one with a choice either to let the ongoing trial casually drift towards its conclusion with the possibility of offence going unpunished or to embark upon investigation belated though, spurred by the intervening developments, to unravel the truth, irrespective of the persons involved. As it is, every offence is a crime against the society and is unpardonable, yet there are some species of ghastly, revolting and villainous violations of the invaluable right to life which leave all sensible and right-minded persons of the society shell-shocked and traumatised in body and soul. Such incidents mercifully, rare though, are indeed exceptionally agonising, eliciting resentful condemnation of all and thus warrant an extraordinary attention for adequate remedial initiatives to prevent their recurrence. In our considered view, even if such incidents, otherwise diabolical and horrendous, do not precipitate national or international ramifications, these undoubtedly transcend beyond the confines of individual tragedies and militatively impact upon the society's civilised existence. If the cause of complete justice and protection of human rights are the situational demands in such contingencies, order for further investigation or reinvestigation,



even by an impartial agency as CBI ought to be a peremptory measure in the overwhelming cause of justice.

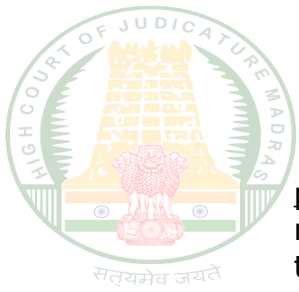
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101. Judged in these perspectives, we are of the firm opinion that notwithstanding the pendency of the trial, and the availability of the power of the courts below under Sections 311 and 391 of the Code read with Section 165 of the Evidence Act, it is of overwhelming and imperative necessity that to rule out any possibility of denial of justice to the parties and more importantly to instil and sustain the confidence of the community at large, CBI ought to be directed to undertake a de novo investigation in the incident. We take this view, conscious about the parameters precedentially formulated, as in our comprehension in the unique facts and circumstances of the case any contrary view would leave the completed process of crime detection in the case wholly inconsequential and the judicial process impotent. A court of law, to reiterate has to be an involved participant in the quest for truth and justice and is not expected only to officiate a formal ritual in a proceeding far-seeing an inevitable end signalling travesty of justice. Mission justice so expectantly and reverently entrusted to the judiciary would then be reduced to a teasing illusion and a sovereign and premier constitutional institution would be rendered a suspect for its existence in public estimation. Considering the live purpose for which judiciary exists, this would indeed be a price which it cannot afford to bear under any circumstance."

(emphasis supplied by us)

57. Superadded, contending that when the State fails to perform its duties, the Court can step in and ensure that the rule of law prevails over abuse of process of law, the learned Senior Counsel placed reliance on the following portion of the judgment in **Samaj Parivartan Samudaya and others vs. State of Karnataka and others [(2012) 7 SCC 407]**:

"66. Wherever and whenever the State fails to perform its duties, the Court shall step in to ensure that the rule of law



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prevails over the abuse of process of law. Such abuse may result from inaction or even arbitrary action of protecting the true offenders or failure by different authorities in discharging statutory or legal obligations in consonance with the procedural and penal statutes. This Court expressed its concern about the rampant pilferage and illegal extraction of natural wealth and resources, particularly iron ore, as also the environmental degradation and disaster that may result from unchecked intrusion into the forest areas. This Court, vide its order dated 29-7-2011 [*Govt. of A.P. v. Obulapuram Mining Co. (P) Ltd.*, (2011) 12 SCC 491] invoked the precautionary principle, which is the essence of Article 21 of the Constitution of India as per the dictum of this Court in *M.C. Mehta v. Union of India* [(2009) 6 SCC 142] , and had consequently issued a ban on illegal mining. The Court also directed relief and rehabilitation programmes to be carried out in contiguous stages to promote intergenerational equity and the regeneration of the forest reserves. This is the ethos of the approach consistently taken by this Court, but this aspect primarily deals with the future concerns. In respect of the past actions, the only option is to examine in depth the huge monetary transactions which were effected at the cost of national wealth, natural resources, and to punish the offenders for their illegal, irregular activities. The protection of these resources was, and is the constitutional duty of the State and its instrumentalities and thus, the Court should adopt a holistic approach and direct comprehensive and specialised investigation into such events of the past."

(emphasis supplied by us)

58. The learned Senior Counsel further submitted that though the prime accused Kannukutty @ Govindaraj was arrested on more than 20 occasions, the sale of illicit liquor has not been curtailed in Kallakurichi and he used to freely roam around in the streets of Kallakurichi selling illicit liquor in sachets, which only reflects that the police are turning a Nelson's eye to his misdeeds.

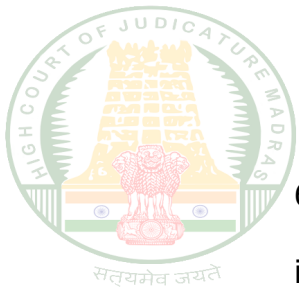


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59. As regards the stand of the State that the affected people are not before this Court, it is the contention of the learned Senior Counsel that the families of victims are economically backward and they are also oblivious of their legal rights and hence, this batch of public interest litigations.

60. Mr.G.S. Mani, learned counsel for the petitioner in W.P.No.19281 of 2024 contended that as per a catena of decisions of the Supreme Court:

- i. even after investigation is over, the Court can make over investigation to another agency;
- ii. vigilant politicians have *locus standi* and are entitled to approach the Court and as such, the instant petitioners can very well maintain these writ petitions;
- iii. a political opponent, being vigilant, can expose the arbitrary exercise of power by the Government; and
- iv. in a criminal case, if it is found that the investigation conducted is not fair and proper, every citizen is entitled to approach the Court and the technical objection citing *locus standi* does not have legs to stand.



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61. It is his further contention that:
- i. the investigation is flawed inasmuch as when the first victim was admitted to hospital, the police did not register an FIR and the first FIR was registered only after the political parties raised this issue, which only shows the inaction on the part of the Government; and
 - ii. only to silence the families of the deceased and the victims, huge amounts of compensation were awarded by the State and such a gargantuan amount has, so far, not been awarded by any other State Government.

62. In response to the stance of the State that when there is no loss of public confidence on police, the case need not be made over to the CBI, it is the contention of the learned counsel that there is no proof to that effect. In other words, according to him, the very fact that no FIR has been registered against any official, including police personnel, is a proof for loss of public confidence on police.

63. In answer to the contention of the learned Advocate General that the writ petitions are premature, Mr. G.S. Mani pointed out that it is not as contended by the learned Advocate General and



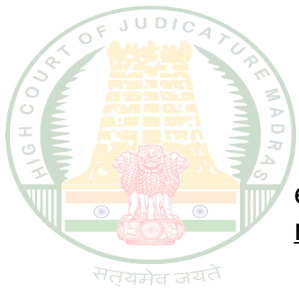
that only after addressing a representation, the writ petitions have come to be filed.

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64. As regards the stand of the Government that no politicians are involved in the case, it is his stand that whether there was political involvement or not in the matter can be found out only if investigation is conducted by the CBI.

65. In support of his contention that this is a fit case for transfer of investigation to the CBI, Mr. G.S. Mani, learned counsel, relied on the judgment of the Supreme Court in **Mithilesh Kumar Singh**, *supra*, which was also relied on by the learned Advocate General. The relevant paragraph relied on by Mr. G.S. Mani is paragraph 22, which is usefully extracted below:

"22. It is true that the prayer for transfer of investigation from the State Police to CBI can be allowed only in rare and exceptional circumstances when fair investigation by the State Police does not inspire confidence on account of any external influence or otherwise as held in *State of W.B. v. Committee for Protection of Democratic Rights* [(2010) 3 SCC 571 : (2010) 2 SCC (Cri) 401]. There can be no cast-iron parameters and whether an exceptional situation has arisen may be determined by the Court by taking an overview of the fact situation of a particular case. In the present case, we do not consider it necessary to blame the college authorities or the local police but we are also unable to reject the apprehension of the petitioner and his prayer for transfer of investigation. The death of a young girl student has taken place in mysterious circumstances. According to the petitioner, the statement of the girl was not recorded even though it could have been done and thus, truth has not come out. In these circumstances, without



expressing any opinion on merits, it will be appropriate that the matter is investigated by CBI."

(emphasis supplied by us)

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66. For the same proposition, Mr. G.S. Mani placed further reliance on the judgment in **Bharati Tamang vs. Union of India and others [(2013) 15 SCC 578]**, wherein, the Supreme Court, after setting out the circumstances under which a case can be made over to the CBI, observed as under in unequivocal language:

"44. Having noted the various relevant features, we find force in the submission of the learned counsel for the petitioner that the proceeding of the case by the prosecution either by the State Police or by CID and after it was taken over by CBI was not carried out in a satisfactory manner. The very fact that after the occurrence took place on 21-5-2001 there was serious lapse in apprehending many of the accused and the absconding of the prime accused Nicol Tamang and Dinesh Subba till this date disclose that there was total lack of seriousness by the prosecution agency in carrying out the investigation. The circumstances pointed out on behalf of the petitioner, namely, the absconding of many of the accused between May 2010 and February 2013 was a very relevant circumstance which gives room for suspicion in the mind of this Court as to the genuineness with which the case of the prosecution was being carried out. The submission that the murder took place due to political rivalry cannot be a ground for anyone, much less, the investigation agency to display any slackness or lethargic attitude in the process of investigation. Whether it be due to political rivalry or personal vengeance or for that matter for any other motive a murder takes place, it is the responsibility of the police to come up to the expectation of the public at large and display that no stone will remain unturned to book the culprits and bring them for trial for being dealt with under the provisions of the criminal law of prosecution. Any slackness displayed in that process will not be in the interest of public at large and therefore as has been pointed out by this Court in the various decisions, which we have referred to in the earlier paragraphs, we find that it is our responsibility to ensure that the prosecution agency is reminded of its responsibility and



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duties in the discharge of its functions effectively and efficiently and ensure that the criminal prosecution is carried on effectively and the perpetrators of crime are duly punished by the appropriate court of law.

(emphasis supplied by us)

67. Further reliance was placed by Mr. G.S. Mani on **Narmada Bai vs. State of Gujarat and others [(2011) 5 SCC 79]**, wherein, the Supreme Court, without delving into the allegations levelled by either side, thought it fit that the case be transferred to the CBI, albeit the fact that charge sheet was filed after a gap of 3 ½ years after the incident. The relevant passage from the said judgment is reproduced below:

“63. In both these decisions, this Court refrained from expressing any opinion on the allegations made by either side but thought it wise to have the incident investigated by an independent agency like CBI so that it may bear credibility. This Court felt that no matter how faithfully and honestly the local police may carry out the investigation, the same will lack credibility as allegations were directed against them. This Court, therefore, thought it both desirable and advisable and in the interest of justice to entrust the investigation to CBI so that it may complete the investigation at an early date. It was clearly stated that in so ordering, no reflection either on the local police or the State Government was intended. This Court merely acted in public interest.

64. The above decisions and the principles stated therein have been referred to and followed by this Court in *Rubabbuddin Sheikh* [(2010) 2 SCC 200 : (2010) 2 SCC (Cri) 1006] where also it was held that considering the fact that the allegations have been levelled against high-level police officers, despite the investigation made by the police authorities of the State of Gujarat, ordered investigation by CBI. Without entering into the allegations levelled by either of the parties, we are of the view that it would be prudent and



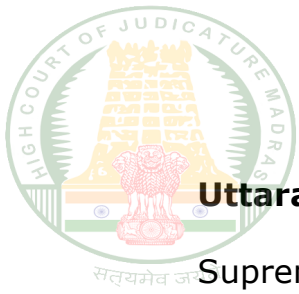
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advisable to transfer the investigation to an independent agency. It is trite law that the accused persons do not have a say in the matter of appointment of an investigation agency. The accused persons cannot choose as to which investigation agency must investigate the alleged offence committed by them.

65. In view of our discussions and submission of the learned counsel on either side and keeping in mind the earlier directions given by this Court, although, charge-sheet has been filed by the State of Gujarat after a gap of 3½ years after the incident, that too after pronouncement of judgment in *Rubabbuddin case* [(2010) 2 SCC 200 : (2010) 2 SCC (Cri) 1006] and considering the nature of crime that has been allegedly committed not by any third party but by the police personnel of the State of Gujarat, we are satisfied that the investigation conducted and concluded in the present case by the State police cannot be accepted. In view of various circumstances highlighted and in the light of the involvement of police officials of the State of Gujarat and police officers of two other States i.e. Andhra Pradesh and Rajasthan, it would not be desirable to allow the Gujarat State Police to continue with the investigation, accordingly, to meet the ends of justice and in the public interest, we feel that CBI should be directed to take the investigation.” (emphasis supplied by us)

68. Countering the contention of Mr. Elephant G. Rajendran, learned counsel for the petitioner in W.P.No.18323 that the provisions of the SC/ST Act will have to be invoked, Mr. Hasan Mohamed Jinnah, learned State Public Prosecutor submitted that the said contention cannot hold good, inasmuch as, the provisions of the SC/ST Act can be invoked only when a member of the vulnerable section of the society is subjected to indignities, humiliations and harassment. To fortify this submission, the learned State Public Prosecutor pressed into service paragraph 13 of the judgment **in Hitesh Verma vs. State of**



Uttarakhand [(2020) 10 SCC 710], wherein, it was held by the Supreme Court in categorical terms as below:

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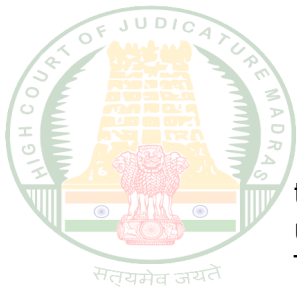
"13. The offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that Respondent 2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that Respondent 2 is a member of Scheduled Caste."

(emphasis supplied by us)

and also the judgment in **Dashrath Sahu vs. State of Chhattisgarh [(2024 (1) MWN (CR.)262]**, the relevant portion of which reads thus:

"9. The case as projected in the FIR and the sworn testimony of the prosecutrix would reveal that the prosecutrix/complainant was engaged for doing household jobs in the house of the accused appellant who tried to outrage her modesty while the prosecutrix/complainant was doing the household chores. Apparently thus, even from the highest allegations of the prosecutrix, the offending act was not committed by the accused with the intention that he was doing so upon a person belonging to the Scheduled Caste...

10. In the said judgment, this Court dealt with a case involving offence under Section 3(2)(v) of the SC/ST Act. The language of Section 3(1)(xi) of the SC/ST Act is pari materia as



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the same also provides that the offence must be committed upon a person belonging to Scheduled Castes or Scheduled Tribes with the intention that it was being done on the ground of caste."

69. The judgment in **Masumsha Hasanasha Musalman vs. State of Maharashtra [(2000) 3 SCC 557]** was also relied on by the learned State Public Prosecutor for the same proposition and the relevant passage from the said judgment reads thus:

"9. Section 3(2)(v) of the Act provides that whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, commits any offence under the Penal Code, 1860 punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine. In the present case, there is no evidence at all to the effect that the appellant committed the offence alleged against him on the ground that the deceased is a member of a Scheduled Caste or a Scheduled Tribe. To attract the provisions of Section 3(2)(v) of the Act, the sine qua non is that the victim should be a person who belongs to a Scheduled Caste or a Scheduled Tribe and that the offence under the Penal Code, 1860 is committed against him on the basis that such a person belongs to a Scheduled Caste or a Scheduled Tribe. In the absence of such ingredients, no offence under Section 3(2)(v) of the Act arises. In that view of the matter, we think, both the trial court and the High Court missed the essence of this aspect. In these circumstances, the conviction under the aforesaid provision by the trial court as well as by the High Court ought to be set aside."

(emphasis supplied by us)

70. In short, it was submitted in unison on the side of the petitioners though according to the State, nine police personnel were suspended, no disciplinary proceedings have been initiated against

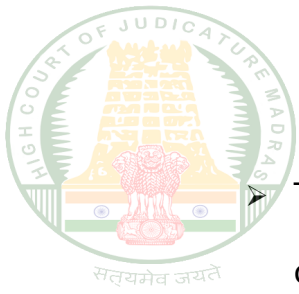


them. It is his further contention that the sale of illicit arrack is not restricted within the boundaries of our State, but, neighbouring Union Territory/States like Puducherry, Andhra Pradesh and Karnataka are also involved in this illegal activity and though the sale of illicit arrack has been made in this area for 14 long years, the State police have not been successful in curbing the illegal activity and hence, on this important score also, making over of the case to the CBI is necessitated.

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

72. From the above summation of facts and arguments advanced on either side, the following undisputed facts emerge.

- The first consumption of illicit arrack which led to the instant Kallakurichi hooch tragedy case was on 18.06.2024 and as days passed by, the death rate climbed rapidly to 67. In other words, in less than a fortnight, the death toll found an exponential increase to 67.

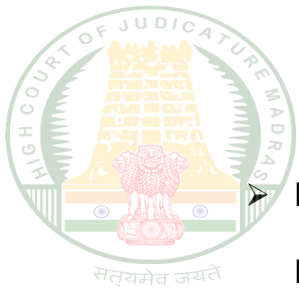


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The aforesaid number of deceased belongs to various communities like Scheduled Caste/Scheduled Tribe, Most Backward Class, Backward Class and 1 person is reported to belong to a minority religion, viz., Islam.

- Kannukutty @ Govindaraj is the mastermind behind the Kallakurichi hooch tragedy case and even prior to this case, he was arrested in connection with umpteen cases.
- The Superintendent of Police, Kallakurichi District, was suspended *vide* G.O.Ms.No.351, Home (SC) Department dated 19.06.2024 for his failure to curb the sale of illicit arrack in his jurisdiction.
- His suspension order was revoked *vide* G.O.Ms.No.417 Home (SC) Department dated 24.07.2024 and on the same date, he was posted as Deputy Commissioner of Police, Traffic, Tambaram. Such revocation was made pursuant to the representation dated 02.07.2024 made by him to that effect.

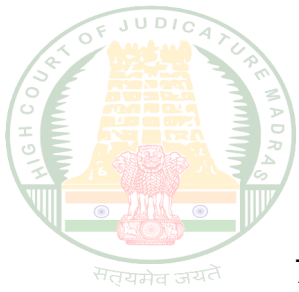


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Further, other than Superintendent of Police, Kallakurichi, two Deputy Superintendents of Police, two Inspectors and one Sub Inspector from Prohibition and Enforcement Wing and one Circle Inspector have also been suspended for their failure to curb the sale of illicit arrack in Kallakurichi

- There have been instances of transactions happening inter-State, viz., transactions among the accused in Tamil Nadu, Puducherry, Andhra Pradesh and Karnataka.
- This hooch tragedy is not the first of its kind. In the last year, i.e., 2023, there were 17 deaths in Marakkanam in Villupuram District and 5 deaths in Madurantakam in Chengalpattu District owing to consumption of illicit arrack.

73. The seminal question that arises for consideration of this Court, as could be seen from the prayer portion of the writ petitions is, whether the investigation of Kallakurichi hooch tragedy has been made over to the CBI or can it be allowed to be continued by the CB-CID, Kallakurichi. The ancillary question is whether the provisions of the SC/ST Act have to be invoked.



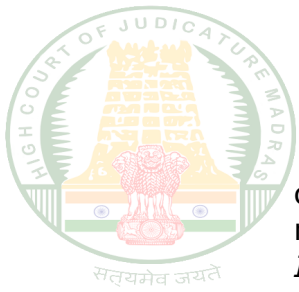
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74. However, even before venturing to answer the aforesaid issues, it is imperative that the question of maintainability of these public interest litigations has to be decided.

75. It is trite that Courts should be circumspect while entertaining public interest litigations. In the instant cases, it is the main bone of contention of the learned Advocate General that the petitioners belong to opposition parties and hence, at their instance, these public interest litigations should not be entertained.

76. At this juncture, it is apropos to refer to the judgment in **Guruvayoor Devaswom Managing Committee and another vs. C.K.Rajan and others [(2003) 7 SCC 546]**, which is a *locus classicus* judgment on the scope of maintainability of public interest litigations. In the said judgment, at paragraph no.50, the Supreme Court, summarized the principles governing maintainability of public interest litigations. To avoid prolixity, a couple of passages from the said paragraph which are applicable to the issue in hand alone are reproduced below for ease of reference:

(iv) The common rule of *locus standi* is relaxed so as to enable the Court to look into the grievances complained on behalf of the poor, the depraved (sic), the illiterate and the disabled who cannot vindicate the legal wrong or legal injury



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caused to them for any violation of any constitutional or legal right. [See *Fertilizer Corpn. Kamgar Union (Regd.) v. Union of India* [(1981) 1 SCC 568 : AIR 1981 SC 344], *S.P. Gupta* [1981 Supp SCC 87], *People's Union for Democratic Rights* [(1982) 2 SCC 494 : 1982 SCC (L&S) 262], *D.C. Wadhwa (Dr) v. State of Bihar* [(1987) 1 SCC 378] and *BALCO Employees' Union (Regd.) v. Union of India* [(2002) 2 SCC 333].]

(v) When the Court is prima facie satisfied about variation of any constitutional right of a group of people belonging to the disadvantaged category, it may not allow the State or the Government from raising the question as to the maintainability of the petition. (See *Bandhua Mukti Morcha* [(1984) 3 SCC 161 : 1984 SCC (L&S) 389 : (1984) 2 SCR 67] .)

(emphasis supplied by us)

77. In the instant cases, it is not even the case of the State that the deceased or the affected are not poor or they do not belong to downtrodden community. Viewed from that perspective, the argument of the State that these public interest litigations are not maintainable, does not hold water.

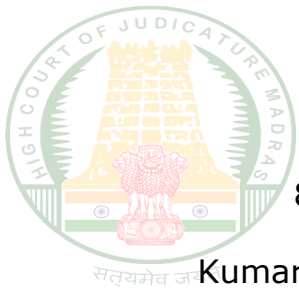
78. Next, before proceeding to consider the seminal question, this Court deems it fit to consider the ancillary question first. It is common knowledge that the SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. A careful perusal of the particulars of the deceased persons furnished by the learned State Public Prosecutor reveals that about 67% of 67 deceased persons



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belong to SC/ST and the remaining belong to other communities like BC, OBC, MBC and also a minority religion, viz., Islam. In our considered view, merely because of the fact that a major chunk of the deceased belongs to SC/ST, the provisions of the SC/ST Act cannot be invoked, because, by this hooch tragedy, the victims were not subjected to indignity or humiliation or harassment, which is the *sine qua non* for pressing into service the provisions of the SC/ST Act. Such being the case and also by drawing inspiration from the judgment in **Hitesh Verma, supra**, and **Masumsha Hasanasha Musalman, supra**, relied on by the learned State Public Prosecutor, it can safely be held that the relief *qua* invocation of the provisions of the SC/ST Act cannot be granted.

79. Now, coming to the seminal question adverted to above, both sides have placed for the consideration of this Court, the judgments of the Supreme Court, for and against making over of cases to the CBI. Thus, it is beyond cavil that the question as to whether a case has to be made over to the CBI or not, depends on the facts obtaining in each case, and there is no straitjacket formula in this regard.



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80. The first victim of the Kallakurichi hooch tragedy, Praveen Kumar, was admitted to Kallakurichi Medical College and Hospital on 19.06.2024 at 3.45 a.m. and in a span of about five hours since then, four other persons, viz., Suresh, S/o Mannankatti, Suresh, S/o Dharman, Praveen Kumar and Sekar, had died. Admittedly, the first FIR in this case, viz., Kallakurichi P.S.Cr.No.417 of 2024 was registered on 19.06.2024 at 11.30 a.m. When, admittedly, not one, but, as noticed above, as many as five persons, were taken to hospital on the morning of 19.06.2024, the FIR in Kallakurichi P.S. Cr.No.417 of 2024 was registered only at 11.30 a.m. However, this Court is conscious of the judgment of the Supreme Court in **Ravinder Kumar and another vs. State of Punjab [(2001) 7 SCC 690]**, wherein, it was held that delayed registration of an FIR cannot operate as fatal to any prosecution case and even a promptly lodged FIR is not an unreserved guarantee for genuineness of the version incorporated therein.

81. Next, coming to the stand of the State that on the same day the series of deaths happened, i.e., on 19.06.2024, the Superintendent of Police, Kallakurichi and eight other police personnel were placed under suspension owing to their failure to curb sale of illicit liquor in their jurisdiction, it is to be seen that the suspension of the Superintendent of Police was revoked on 24.07.2024 and he was



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posted as Deputy Commissioner of Police, Tambaram. The reason assigned for revocation of his suspension is that the said officer addressed a representation to that effect and the Director General of Police recommended for revocation of his suspension. This reason does not cut ice with this Court because no material worth the salt was produced before this Court in support of this reason. In other words, the materials produced before this Court by the State would reveal that there is no acceptable reason for revocation of the suspension. Though the officer has been posted in a non-sensitive post, in the opinion of this Court, the possibility of him attempting to influence the others in the department cannot be ruled out. Further, though G.O.Ms.No.81, Human Resources Management (N) Department dated 04.08.2022, stipulates timeline for completion of every stage of disciplinary proceedings, seemingly, no disciplinary proceedings have been initiated against the errant police officials. All these aspects cumulatively make this Court think that there may not be a fair and impartial investigation by the CB-CID.

82. The other point which this Court would like to highlight is that though the prime accused Kannukutty @ Govindaraj has been arrested in connection with 17 cases (all under the Tamil Nadu Prohibition Act) from 2009 to 2023, out of which, he has been



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convicted in nine cases, he had been selling illicit arrack in the streets without any let or hindrance and this makes us believe that there is merit and substance in the stand of the petitioners that Kannukutty @ Govindaraj has an unholy nexus with the police officials.

83. Moreover, from the records produced by the State, it is manifest that amongst all the districts in the State, more number of illicit arrack cases have been registered in the last eight years in four districts, viz., Kallakurichi, Villupuram, Cuddalore and Tiruvannamalai and further, there have also been instances of inter-State transactions, which is evident from the version of one Balaji of Puducherry which finds place in the investigation report as per which he used to purchase methanol from Red Hills area. To be noted, Puducherry and Kallakurichi are border areas due to which there is every likelihood of free transportation of illicit and spurious liquor between Tamil Nadu and Puducherry. These two important aspects cannot be slightly brushed aside.

84. For the aforesaid reasons, this Court is of the *prima facie* view that had the police officials nipped the problem in the bud, the loss of 67 lives in Kallakurichi could have been easily averted.



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85. The next aspect which needs to be looked into is that even as per the stand of the State, in certain cases, there is involvement of accused of border States like Andhra Pradesh and Karnataka and Union Territory of Puducherry also, even right from the stage of procurement of raw materials. Thus, when the entire illegal activity is not confined to just within Tamil Nadu, but, there is a nexus with accused from two other States and one Union Territory, this Court is constrained to ponder over as to how the CB-CID could effectively investigate this case and bring offenders to book.

86. The next intriguing aspect in this case is that on 19.06.2024, the District Collector, Kallakurichi, states in a Press Meet that the cause of death cannot be attributed to consumption of illicit arrack alone. Further, on the same day, the Superintendent of Police, Kallakurichi, is placed under suspension for the reason that he failed to curb the sale of illicit arrack in his jurisdiction which led to the death of a few persons. This mutually contradictory stand of the State is indeed jaw-dropping.

87. At this juncture, it is worth pointing out that in the aftermath of the hooch tragedy cases in Marakkanam in Villupuram District and Madurantakam in Chengalpattu District, the Director

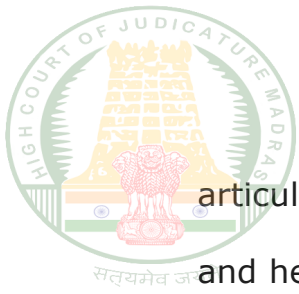


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General of Police, addressed a letter dated 13.12.2023 to the Principal Secretary to Government, Home Department, highlighting that there are no clearcut guidelines for handling methanol as in the case of distribution, transportation and sale of illegal arrack and soliciting appropriate orders/further instructions. Notwithstanding this communication dated 13.12.2023, the Kallakurichi hooch tragedy has happened, claiming 67 lives, most of whom, belong to the downtrodden community and this aspect cannot be slightly brushed aside.

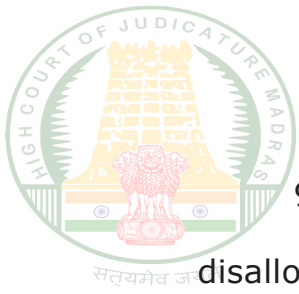
88. The next point to be looked into is that the very allegation in these public interest litigations is levelled only against the officials of the State Government, including the police, and politicians. Such being the case, this Court is only reminded of the Latin phrase *Nemo judex in causa sua* which means that no person can judge a case in which he has interest. To be noted, justice must not only be done but must also be seen to be done. This view of this Court is fortified by the judgment in **Narmada Bai**, *supra*, relied on by Mr. G.S. Mani.

89. The learned Advocate General, by producing facts and figures in the form of statistics in the two status reports, which have been alluded to in the narration of facts in the earlier part of this order,



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articulated that investigation in the cases on hand is almost complete and hence, at this stage, the cases need not be made over from the file of the CB-CID to the file of the CBI as the latter agency will have to only start investigating from scratch. This argument, again, does not cut ice with this Court, because, it is trite law that even after charge sheet is filed, a case can be made over to the CBI and judgments on this point are legion. In fact, from the statistics produced by the State, it is manifest that only in Villupuram, Kallakurichi, Cuddalore and Tiruvannamalai Districts, the reported ID arrack cases are on the high, especially during the years 2023 and 2024. Though the police claim that they are taking all earnest steps to curb the sale of illicit liquor, this Court is of the view that the ground reality reflected in the 2023 hooch tragedy cases in Chengalpattu and Villupuram and the 2024 Kallakurichi incident is otherwise. As already observed above, had the State acted upon the 13.12.2023 communication of the Director General of Police in letter and spirit, the lives of 67 innocent persons of Kallakurichi could have been saved. Further, without prejudice to the rights of the parties, interim charge sheet has been filed before the jurisdictional Court. Hence, for all the aforesaid reasons, the stand of the learned Advocate General that the investigation should not be transferred to the CBI cannot be accepted.

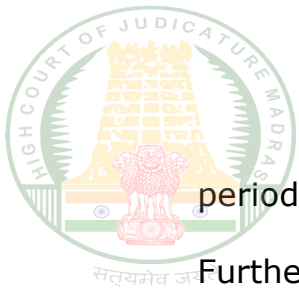


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90. Next, the stand of the State that the Hon'ble Speaker disallowed the Call Attention Motion moved by Mr. Senthilkumar, MLA of Kallakurichi Constituency as regards curbing the sale of illicit liquor in Kallakurichi and hence, the matter did not come to the notice of the State is too big a pill to swallow, especially in the light of the fact the police do have knowledge of manufacture of illicit liquor in Kalvarayan hills near Kallakurichi. That apart, the main allegation levelled by the petitioners is only with regard to mixing of methanol.

91. In view of the foregoing discussion, with specific reference to the authoritative pronouncements of the Supreme Court in the matter of transfer of cases to the CBI, this Court is of the *prima facie* view that this Kallakurichi hooch tragedy case is one of the rarest of rare cases which warrants a fair and impartial investigation by the CBI.

92. Accordingly, the State police, *viz.*, the Superintendent of Police, Kallakurichi and the Deputy Superintendent of Police, CB CID, Kallakurichi, are directed to hand over the entire case diaries in CB-CID Villupuram Cr.Nos.2 to 4 of 2024 to the CBI, Chennai, within a

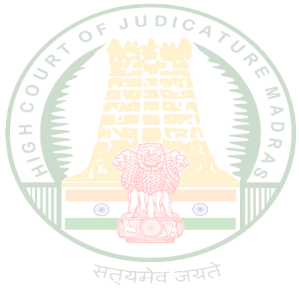


period of two weeks from the date of receipt of a copy of this order.

Further, the CBI, Chennai, is directed to investigate all aspects of the aforesaid three cases and file final reports before the jurisdictional Court as expeditiously as possible. Needless to state, the State police shall extend their fullest cooperation to the CBI for the smooth conduct of investigation. It is made clear that whatever observations made in this common order are only for the limited purpose of deciding as to whether the cases in CB-CID Villupuram Cr. Nos.2 to 4 2024 deserve to be retained on the file of the CB-CID, Villupuram or liable to be transferred to the file of the CBI and the CBI shall not be influenced, in any manner, by any of the observations made in this common order.

93. Before parting, we would like to add that while some materials placed before this Court by the State, reveal that the total number of deceased in the Kallakurichi hooch tragedy is 67, some other materials of the State reflect that the number is 68. Since the aforesaid difference is very insignificant and it is also not going to have any impact on the verdict of this case, this Court has taken the number as 67.

The writ petitions stand disposed of on the above lines. Costs made easy. Connected W.M.Ps. stand closed.



W.P.Nos.16519, 16744, 18323, 19079 and 19281 of :

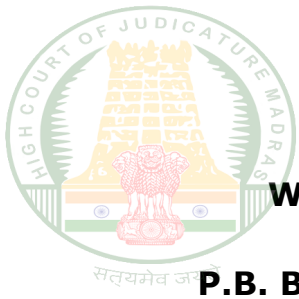


(D.K.K., J.) (P.B.B., J.)
20.11.2024

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Index:Yes/No

Neutral citation: Yes/No



W.P. Nos.16519, 16744, 18323, 19079 and 19281 of 2024

P.B. BALAJI, J.

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95. I have had the benefit of the erudite judgment of my respected senior brother Mr.Justice D.Krishnakumar. I am in complete agreement with all the findings and conclusions therein. By way of this concurring opinion, I proceed to set out *infra* my views to supplement the reasons assigned by my senior brother.

96. குடி குடியைக் கெடுக்கும். Translated in English, it means, consumption of alcohol destroys a whole community.

97. The Kallakurichi hooch tragedy is a classic example which resonates so well with this proverb.

98. That the incident occurred within a stone's throw distance from the police station really stuns us as to how it could have gone unnoticed. To top it all, when senior police officials were suspended immediately, one of the suspensions was even revoked without proper reasons. Yet, despite all the suspensions and posting of one of the top officers in a non-sensitive post, the State has not been able to demonstrate what disciplinary action has been initiated against these

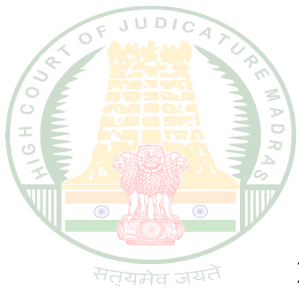


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officials. All this only leads us to believe that either there was indeed an unholy connection amongst the persons involved in the manufacture and sale of illicit liquor and the police authorities or the suspensions were merely knee-jerk reactions in the heat of the moment to merely appease the public. Either way, we are not able to appreciate the actions taken by the State and in fact, it is only their inaction and conscious silence that looms large.

99. It bewilders us that the prime accused, Kannukutty alias Govindaraj, despite several cases slapped on him, admittedly, goes around scot free, selling illicit arrack. Questions like why and how the police are not able to bring him to book arise, to only strengthen the apprehensions that all has not been well and the police have turned a total blind eye in his case.

100. The investigation by the CB-CID also appears to be misdirected and despite two of the persons involved being natives of Pondicherry, the angle of inter-state transportation of illegal chemicals and substances has received a step-motherly treatment. The CBI will be better equipped to deal with inter-State issues like this and this also weighs in favour of the transfer of investigation as prayed for by the writ Petitioners.



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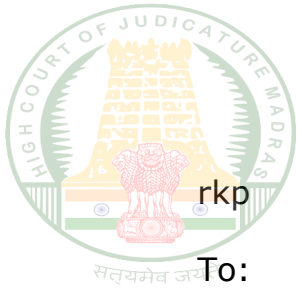
101. Alcohol itself is dangerous and illicit alcohol is a killer. The Kallakurichi incident has only reminded us of what damage it can do. It has left behind foot prints of its ill effects by taking away as many as 67 deaths, most of them being bread winners of their families, leaving their near and dear in utter shambles and only more poverty.

102. This incident is indeed a rude wake up call to the society to not just remember the ancient proverbs and Thirukurals, but also put them into practice to save our future generations from the ill effects of alcohol/illicit liquor.

103. My brother Justice D.Krishnakumar has threadbare discussed the facts and counter facts and applying the ratio laid down by the Apex Court in several leading cases, has accepted the prayer for transfer of the investigation to the CBI.

As stated in the opening paragraph, I am in entire agreement with the detailed and well penned judgment of my senior brother Justice D.Krishnakumar that the case on hand warrants an investigation by the CBI.

20.11.2024

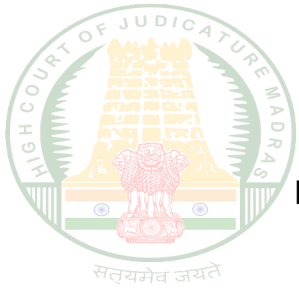


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To:

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1. The Chief Secretary
Government of Tamil Nadu
Fort St. George
Chennai 600 009
2. The Home Secretary
Government of Tamil Nadu
Fort St. George
Chennai 600 009
3. The Principal Secretary
Department of Health and Family Welfare
Government of Tamil Nadu
Fort St. George
Chennai 600 009
4. The Director General of Police
Dr. Radhakrishnan Salai
Mylapore, Chennai 600 004
5. The District Collector
Kallakurichi District
Kesavalu Nagar, V.O.C. Nagar, Kallakurichi
Tamil Nadu 606 202
6. The Superintendent of Police
Kallakurichi District
Kalaivani Nagar
Kottaimedu
Kallakurichi, Tamil Nadu 606 202
7. The Director
Central Bureau of Investigation
Plot No.5-B, VI Floor, CGO Complex
Lodhi Road

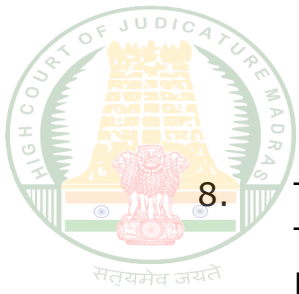


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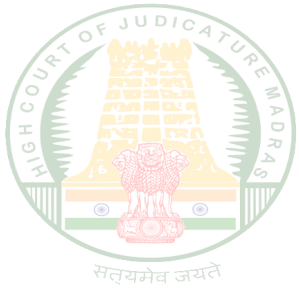
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8. The Director
Tamil Nadu Medical and Rural Health Services
DMS Complex
361, Anna Salai
Chennai 600 006
9. The Additional Director General of Police
Prohibition Enforcement Wing
DGP Office Complex
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Mylapore
Chennai 600 004
10. The Director
Central Bureau of Investigation
No.26, III Floor, Haddows Road
Shastri Bhavan
Chennai 600 006
11. The Deputy Superintendent of Police
CB-CID
Kallakurichi District
12. The Commissioner of Prohibition and Excise
II Floor, Ezhilagam Building
Chepauk
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13. The Additional Director General of Police
(Intelligence)
State Intelligence Wing
DGP Office Complex, New Building, Annexe B
Kamarajar Salai
Mylapore, Chennai 600 004



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D. KRISHNAKUMAR, J.

and

P.B. BALAJI, J.

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20.11.2024