

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Friday, the Twenty Sixth day of June Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH
and
The Hon`ble Mr Justice B.PUGALENDHI

Suo Motu W.P. (MD) No.7042 of 2020

THE REGISTRAR (JUDICIAL)
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

... PETITIONER

Vs

1. THE STATE OF TAMILNADU REP. THROUGH ITS
THE SUPERINTENDENT OF POLICE,
THOOTHUKUDI DISTRICT, THOOTHUKUDI.
- 2 THE INSPECTOR OF POLICE,
SATHANKULAM POLICE STATION,
THOOTHUKUDI DISTRICT.
- 3 THE SUPERINTENDENT,
KOVILPATTI SUB JAIL,
KOVILPATTI, THOOTHUKUDI DISTRICT.
- 4 THE DEAN
MEDICAL COLLEGE HOSPITAL,
HIGH GROUND, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

5 RAGHUGANESAN

6 MURUGAN

... RESPONDENTS

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Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus directing the first respondent to submit a report on the death of Pennis and Jeyaraj, accused in Sathankulam P.S., Cr.No.312 of 2020 and or pass any other order/direction as this Honourable Court may deem fit and proper, in the circumstances of the case and thus render justice.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the submission of THE REGISTRAR(JUDICIAL) - petitioner and hearing the arguments of MR.K.CHELLAPANDIAN, Additional Advocate General assisted by Mr.R.ANANDHARAJ, Additional Public Prosecutor on behalf of the Respondents R1 to R4, the court made the following order:-

On 24.06.2020, this Court passed the following order:

"We heard Mr.K.Chellapandian, learned Additional Advocate General and Mr.Shanmuga Rajeswaran, I.P.S., Inspector General of Police, South Zone and Mr.Balagopalan, I.P.S., Superintendent of Police, Tuticorin, via audio call and video conferencing.

2 On instructions, the learned Additional Advocate General submitted that Balakrishnan and Raghuganesan, Sub Inspectors of Police, Sathankulam P.S. have been placed under suspension; Sridhar, Inspector of Police, Sathankulam P.S., has been kept in waiting and the Superintendent of Police, Tuticorin, has taken action against Muthuraj and Murugan, two Head Constables attached to Sathankulam P.S. He further submitted that the learned Judicial Magistrate, Kovilpatti, is conducting inquest at the Government Hospital, Tirunelveli, where, the two bodies are kept.

3 This Court directs the Tirunelveli District administration to provide necessary infrastructure and support to the Judicial Magistrate, Kovilpatti, for conducting the inquest and there shall not be any interference whatsoever in his work. We are aware that only after the inquest, post-mortem can be done as directed by one of us (B.Pugalendhi, J.) vide order dated 23.06.2020 in CrI.O.P. (MD) No.6651 of 2020. We reiterate that post-mortem shall be done by a team of three experts and that the same should be videographed.

4 The learned Additional Advocate General expressed apprehension that the social distancing norms may not be violated while the bodies are being taken for funeral. We make it clear that we are not relaxing the social distancing norms prescribed by the Government for funerals as the spread of COVID-19 pandemic is rampant.

5 We direct the Tirunelveli and Tuticorin District administration to keep the public informed of the fact that the Madurai Bench of Madras High Court is closely monitoring the case and thereby, instill confidence in them.

6 The Superintendent of Police, Tuticorin, shall file status report on 26.06.2020 (Friday).

7 A copy of the inquest report and post-mortem report shall be sent to the Registrar (Judicial), Madurai Bench, in sealed covers as and when they are completed.

Call on 26.06.2020 (Friday) for the Superintendent of Police, Tuticorin, to file status report."

2 Today, we heard Mr.K.Chellapandian, learned Additional Advocate General and also Mr.Arun Balagopalan, I.P.S., Superintendent of Police, Tuticorin, via video conferencing.

3 As directed by this Court vide order dated 24.06.2020, the Superintendent of Police, Tuticorin, has filed a status report of date, wherein, he has stated as follows:

"3. It is most humbly submitted that a first information report in Sathankulam P.S. Cr. No.312/2020 u/s 188,269,294(b),353,506(ii) IPC was registered by Tr.Raghu Ganesh, Sub Inspector of Police, Sathankulam Police Station on 19.06.2020 at 22.00 hrs. based on the complaint preferred by HC 258, Tr. Murugan in which it was stated that Tr. Jeyaraj and his son Tr. Bennicks had not closed their mobile shop near Kamarajar Statue, Sathankulam even after the permitted time and thereby violated general prohibitory orders. Further, when beat police asked them to close the shop, they abused, prevented the police constables from discharging the official duty and threatened with dire consequences. Both of the accused were arrested at 23.30 hrs. on 19.06.2020 by the investigation officer. They were produced before the duty doctor GH Sathankulam for medical examination, produced before the Judicial Magistrate, Sathankulam, and remanded to judicial custody at 14.30 hrs. on 20.06.2020 at Sub Jail, Kovilpatti.

4. It is humbly submitted that at 23.00 hrs. on 22.06.2020, Tr. Sankar, Jail Superintendent, Sub Jail preferred a complaint at Kovilpatti East Police Station stating that Tr. Bennicks, remand prisoner concerned in Sathankulam Police Station Cr. No.312/2020 u/s 188,269,294 (b),353,506(ii) I.P.C. was admitted at Government Hospital, Kovilpatti by the authorities of Sub Jail, Kovilpatti at 19.45 hrs. on 22.06.2020. While he was undergoing treatment at Government Hospital, Kovilpatti, he expired at 21.00 hrs. on 22.06.2020. Based on the complaint by the Jail Superintendent, a FIR in Kovilpatti East P.S. Cr. No.649 of 2020 u/s 176(1-A)(i) Cr.P.C. was registered at 23.00 hrs. on 22.06.2020 as per the procedure established by the law.

5. It is humbly submitted that at 06.45 hrs., on 23.06.2020, Tr. Sankar, Jail Superintendent, Sub Jail preferred a complaint at Kovilpatti East Police Station

stating that remand prisoner Tr. Jeyaraj, concerned in Sathankulam P.S. Cr. No.312/2020 was admitted at Government Hospital, Kovilpatti by the authorities of Sub Jail, Kovilpatti at 22.30 hrs. on 22.06.2020. While he was undergoing treatment at Government Hospital, Kovilpatti, he expired on 23.06.2020 at 5.40 hrs. Based on the complaint of Jail Superintendent, a case in Kovilpatti East Police Station Cr. No.650/2020 u/s 176(1-A)(i) Cr.P.C. was registered at 06.45 hrs. on 23.06.2020 as per the procedure established by law.

6. It is humbly submitted that both the bodies were sent to Tirunelveli Medical College and Hospital for autopsy. Further, Tr. Suthesan, Inspector of Police, Kovilpatti East P.S., the Investigating Officer of both the FIRs above mentioned, submitted requisitions to the learned Chief Judicial Magistrate, Thoothukudi, to depute Magistrate to conduct the inquiry and inquest on the dead bodies. Accordingly, learned Judicial Magistrate No.I, Kovilpatti has been deputed by the learned Chief Judicial Magistrate, Thoothukudi to conduct the inquiry and inquest as per proceedings vide A1.113/2020 dated 23.06.2020 and A.1.114/2020 dated 23.06.2020.

7. It is humbly submitted that the relatives of the deceased prisoners and merchants gathered at Sathankulam bazaar on 23.06.2020, condemning alleged police excess with regard to Sathankulam P.S. Cr.No.312/2020 allegedly causing the death of Tr. Jeyaraj and Tr. Bennicks. In this connection, Tmt. Selvarani, W/o deceased Tr. Jeyaraj represented a petition to the undersigned at Sathankulam Deputy Superintendent of Police Office on 23.06.2020 demanding action against the concerned police officers and constables at Sathankulam Police Station."

4. Apropos it is, to mention at this juncture, that the Principal District Judge, Tuticorin, is also personally monitoring the case and is briefing us from time to time in this regard.

5. The incident in Sathankulam P.S. Cr. No.312 of 2020, which formed the basis of the arrest of the deceased father-son duo, viz., Jayaraj and Bennicks, occurred in Sathankulam and the deceased were lodged in the Sub Jail, Kovilpatti, where, they unfortunately breathed their last. On account of that, the Judicial Magistrate No.1, Kovilpatti, assumed jurisdiction to conduct the enquiry under Section 176 (1) (1-A) Cr.P.C. As directed by this Court, the post-mortem was done at the Government Hospital, Tirunelveli, by a panel of three experts in the presence of the Judicial Magistrate No.I, Kovilpatti. It is reported that the post-mortem has also been videographed.

6 Initially, there was resentment amongst the members of the family of the deceased, who were not willing to receive the bodies of the deceased, but, on the persuasion of the Judicial Magistrate No.I, Kovilpatti, that justice will be done to them, they accepted the bodies and completed the funeral also peacefully.

7 We are conscious of the fact that in this charged and tensed atmosphere, the Judicial Magistrate No.I, Kovilpatti, would not have been in a position to examine the family members of the deceased, as they would have been under untold stress. Sathankulam is about 100 kms. from Kovilpatti. Therefore, to serve the interests of justice, the following directions are issued:

- a) The Judicial Magistrate No.I, Kovilpatti, may go to Sathankulam for conducting the enquiry, so that the witnesses will be in a position to appear before him and their statements can be recorded.
- b) The Judicial Magistrate No.I, Kovilpatti, is also at liberty to visit the family members of the deceased for the purpose of recording the statements of the womenfolk, who may not be in a position to come out, as they will be in the period of mourning.
- c) The Judicial Magistrate No.I, Kovilpatti, may also conduct local inspection under Section 310 Cr.P.C., visit the Sathankulam Police Station and take photocopies of all the records relating to Sathankulam P.S. Cr. No.312 of 2020, including the Case Diary in Sathankulam P.S.Cr. No.312 of 2020 and the Station General Diary. He may also record the statements of the policemen in the Sathankulam Police Station itself, so that he may get an idea as to where all the deceased were kept during their detention.
- d) The Judicial Magistrate No.I, Kovilpatti, shall also take a photocopy of the case diary in Sathankulam P.S. Cr. No.312 of 2020 and the original case diary shall be handed over to the Chief Judicial Magistrate, Tuticorin, for safe custody.
- e) The Judicial Magistrate No.I, Kovilpatti, may also visit the place of occurrence in Cr.No.312 of 2020 for better appreciation of the facts and may also take videographs of the place of occurrence wherever he finds it necessary.
- f) The Judicial Magistrate No.I, Kovilpatti, may use the Sathankulam Court premises as camp office for conducting the enquiry and the staff members of the Sathankulam Court premises shall be at his disposal, till the enquiry is completed.
- g) The Judicial Magistrate No.I, Kovilpatti, may visit the Sub Jail, Kovilpatti and take photocopies of all the records,

including the admission register and other medical records, duly attested by the Superintendent of the Sub Jail.

- h) The Judicial Magistrate, Kovilpatti, shall also collect the CCTV footages wherever they are available and have them preserved.
- i) The Tuticorin district administration shall provide all necessary facilities and protection to the Judicial Magistrate No.I, Kovilpatti, thereby enabling him to discharge his functions.

8 We hasten to make it clear that by issuing the aforesaid slew of directions, we are not, for a moment, interfering with the manner in which the Judicial Magistrate No.I, Tuticorin, should conduct the enquiry and we leave it open to his discretion to understand the ground reality and act accordingly. Be it noted, the aforesaid directions issued by us are primarily in the nature of guidance to the Magistrate for him to follow.

9 We earnestly hope and trust that the family members of the deceased, local Bar, fourth estate, public, political parties and NGOs would provide a congenial atmosphere for the Magistrate to conduct the enquiry, so that ultimately, justice is done to the parties.

10 Until we pass further orders, we direct that the case in Kovilpatti East P.S.Cr. Nos.649 and 650 of 2020, be dealt with by the Deputy Superintendent of Police, Kovilpatti Range.

11 Further, we have received a report from the Principal District Judge, Tuticorin, informing that one Raja Singh, S/o Soosai of Melapalayam, Santhankulam Taluk, an inmate of the Sub Jail, Kovilpatti has also suffered serious injuries and is under treatment. We direct the Chief Judicial Magistrate, Tuticorin, to conduct an enquiry in this regard and submit a report to this Court separately.

12 The learned Additional Advocate General submitted that no sooner the post-mortem report is ready, it will be submitted in a sealed cover to this Court. We also direct that a copy of the post-mortem report in a sealed cover be furnished to the Judicial Magistrate No.I, Kovilpatti, for the purpose of enquiry.

13 Pursuant to the observation made by us in the order dated 24.06.2020, the Director General of Police, Chennai-4, has issued a circular memorandum dated 25.06.2020, setting out the Standard Operating Procedure for dealing with persons who violate the lock down regulations. We take on record the said Circular Memorandum and place on record our appreciation to the Director General of

Police for the efforts taken in this regard. However, we make it clear that the Standard Operating Procedure should not remain on paper alone, but, should be implemented in spirit as well. In this regard, we suggest that the Police Department engages the services of counsellors and NGOs for providing counselling to the police personnel and their family members during this testing period.

14 The learned Additional Advocate General further submitted that the Government is also in the process of constituting a High Level Committee comprising the Director General of Police, Home Secretary, Law Secretary and other stakeholders to further strengthen the Standard Operating Procedure and make it more viable for implementation, which submission is recorded.

Post on 30.06.2020 (Tuesday).

sd/-

26/06/2020

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/ /2020

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE SUPERINTENDENT OF POLICE,
THOOTHUKUDI DISTRICT, THOOTHUKUDI

2 THE INSPECTOR OF POLICE,
SATHANKULAM POLICE STATION,
THOOTHUKUDI DISTRICT.

3 THE SUPERINTENDENT,
KOVILPATTI SUB JAIL,
KOVILPATTI, THOOTHUKUDI DISTRICT.

4 THE DEAN
MEDICAL COLLEGE HOSPITAL,
HIGH GROUND, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

5 THE PRINCIPAL DISTRICT JUDGE,
TUTICORIN.

6 THE JUDICIAL MAGISTRATE NO.1
KOVILPATTI.

7 THE JUDICIAL MAGISTRATE, SATHANKULAM.

<http://www.judis.nic.in>

- 8 THE CHIEF SECRETARY,
GOVERNMENT OF TAMIL NADU,
SECRETARIAT, FORT ST. GEORGE,
CHENNAI 600 009.
- 9 THE DISTRICT COLLECTOR,
TUTICORIN.
- 10 THE DIRECTOR GENERAL OF POLICE,
CHENNAI 600 004.
- 11 THE INSPECTOR GENERAL OF POLICE,
SOUTH ZONE, MADURAI.
- 12 THE ADDITIONAL ADVOCATE GENERAL,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
- 13 THE CHIEF JUDICIAL MAGISTRATE,
TUTICORIN.

COPY TO:

THE REGISTRAR (JUDICIAL)
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN

Suo Motu W.P. (MD) No.7042 of 2020

Date :26/06/2020

MS/PN/SAR-3/26.06.2020/8P.15C

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