



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD) No.25578 of 2018

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... Petitioner

-Vs-

1.The Home Secretary,  
Government of Tamil Nadu,  
Secretariat, Chennai-9.

2.The Director General of Police,  
DGP Office, Mylapore,  
Dr.Radhakrishnan Salai,  
Chennai-5.

3.The Dean,  
Government Rajaji Hospital,  
Madurai-20.

4.The District Collector,  
Ramanathapuram, Ramanathapuram District.

5.The Secretary,  
Health and Family Welfare Department,  
Secretariat, St.George Fort, Chennai-600 009.

6.The Inspector of Police,  
Kamudhi Police Station,  
Ramanathapuram District.

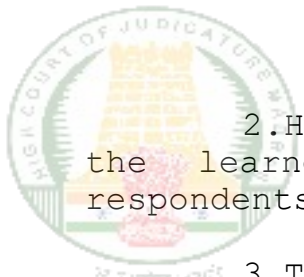
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents 3 and 6 to conduct postmortem of the petitioner's son namely, Ramesh body through two senior professors from forensic department from other teaching Government hospital and under the full video coverage within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.Henri Tiphagne

For Respondents : Mr.R.Anandha Raj,  
Additional Public Prosecutor.**ORDER**

This Writ Petition is filed by the mother of one Ramesh, who died in the hospital during treatment. The petitioner sought for Writ of Mandamus as against the respondents 3 and 6 to conduct postmortem of her son's body, namely, Ramesh, through two senior professors from Forensic Department from other teaching Government hospitals and under the full video coverage within a stipulated time.

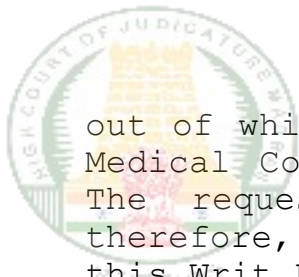


2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. The learned counsel appearing for the petitioner submitted that the life of the petitioner's son could have been saved by the Doctors, if they would have detected the presence of HIV on the date on which he donated blood. The learned counsel appearing for the petitioner had also blamed the media in projecting the issue in such a manner which according to him had driven the petitioner's son to consume poison.

4. The case of the petitioner is that the petitioner's son Ramesh had donated his blood on 30.11.2018 in Sivakasi Government Hospital blood bank, in order to replace the blood, used for his relative at Sivakasi Government Hospital. The said blood which was donated by the petitioner's son was transfused to an anaemic pregnant woman in Sattur Government Hospital. After some time, when he tested his blood in private laboratory in Virudhunagar for the purpose of getting job in abroad, it was reported that he is having HIV positive and jaundice. Immediately, he approached Sivakasi Government Hospital, where a new test was taken and they also confirmed HIV positive. In the mean time, the lady, who was transfused with the blood, has suffered from heavy diarrhea and fever and thereafter, she was admitted to the Sattur Government hospital, wherein it was reported that she is having HIV infection. The media had reported the matter and started asking him about his HIV status. As shamed of the same, he consumed poison and admitted to Kamudhi Government Hospital on 26.12.2018. Thereafter, he was shifted to Ramanathapuram Government Hospital and finally shifted to Government Rajaji Hospital, Madurai on 27.12.2018.

5. According to the petitioner, the doctors at Government Rajaji Hospital, Madurai provided treatment to her son immediately and thereafter, he was recovered to stable. Within three days of treatment, the petitioner's son was back to his normal condition and there was no warning of any danger to his life. On 29.12.2018 the petitioner's son, namely, Ramesh had walked to the toilet on his own before going to sleep. In the early morning of 30<sup>th</sup> December, 2018, around 05.00 A.M., three doctors and one nurse attended him and at that time, Ramesh had complained of pain in his private parts. The doctor had administered two packets of a liquid through I-V and also administered one bottle of blood. He was also administered with an injection near his private part. After some time, Ramesh had vomited blood and died within few minutes. The doctors tried to revive him, but they could not recover him. Around 07.00 A.M., including the petitioner and others are asked to leave from the ward. But the third respondent announced media as if her son died at about 08.10 A.M. When the Ramesh died around 07.00 A.M., the third respondent had informed the media as he died around 08.10 A.M, which raised a doubt for the petitioner. Hence, she gave a petition to the third respondent to conduct postmortem by a team of doctors



out of which two of whom should be from outside Madurai Government Medical College and the entire postmortem shall be video-graphed. The request was not considered by the third respondent and therefore, the petitioner has approached this Court by way of filing this Writ Petition.

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6.The petitioner did not raise any doubt with regard to the treatment provided to her son and also not attribute any motive to the third respondent as well as to the doctors of Government Rajaji Hospital. However, they are having a doubt that the petitioner's son is the crucial witness to the case of the transfusion of the HIV positive to the pregnant lady, who took treatment at Sattur Government Hospital and at the time of death as indicated.

7.It is also pointed out that when the organizers of People's Watch informed the District Collector, Ramanathapuram on his official mobile on 30.12.2018 around 05.30 P.M., and till such time, he was not at all informed about the death. According to the petitioner, the district administration, Ramanathapuram had agreed to the postmortem being carried out by a team of doctors.

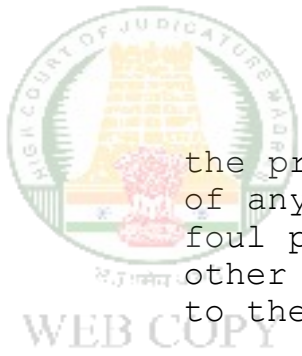
8.The learned Additional Public Prosecutor appearing for the respondents had strongly opposed for the grant of relief that it is routine affair for asking such relief in all the cases registered under Section 174 Cr.P.C. He would further submit that in the surrounding area, the Government Rajaji Hospital, Madurai is the biggest Government Medical College Hospital compared with Sivagangai and Theni District and therefore, the senior most professors are working only in Government Rajaji Hospital, Madurai. He had also produced a circular, which has been issued by the Director of Medical Education in conducting postmortem in the cases of HIV patients. The said circular reads as follows:-

- "Postmortem should be conducted using
- (a) double gloves (upto the elbows level)
  - (b) double mask
  - (c) cap
  - (d) a plastic apron
  - (e) a pair of goggles to protect the eyes
  - (f) gum boots

Even though, the person is dead, the changes of infection from the dead body to others is 90% upto 72 hours. Hence, if possible, the postmortem can be delayed up to that time; the body can be wrapped in a plastic cover and kept separately.

During the postmortem examination, the tissue damage (cutting or scaring) can be minimized, so "that infection through aerosol will be prevented.

9.The learned Additional Public Prosecutor had also produced a copy of the book "The Essentials of Forensic Medicines and Toxicology" and relied upon the contents regarding the video-graph on postmortem. In the said book, it is stated as follows:-



"Video-graphy of autopsy is necessary only when the preliminary inquest by the Magistrate raises suspicion of any kind of foul play or where a complaint alleging any foul play has been made to the authorities or there is any other suspicion of foul play. The cassette has to be sent to the Commission along with the P.M. report".

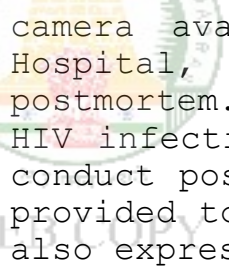
10. During the course of argument, the third respondent had appeared before this Court and also produced a written defence statement, which reads as follows:-

"2. Ramesh, 18 Years/Male, got admitted at our hospital on 27.12.2018 at 01.15 a.m. got admitted for alleged consumption of rat killer paste (Ratol) poisoning which is liver toxin. He was treated with I.V. Fluids and other supportive measures.

3. Ratol poison contains Yellow Phosphorus. It causes Acute Liver failure. The patients are usually asymptomatic during the initial 72 hours of ingestion, or they may have signs and symptoms of gastrointestinal irritation. After 72 hours they develop deranged liver function, acute hepatic failure, coagulopathy. Patients who present late after consumption of the lethal dose develop fulminant hepatic failure with mortality of 100%. He consumed poison on 26.12.2018 at 07.30 a.m., and admitted in our hospital on 27.12.2018 at 01.15 a.m. (18 hours after consumption of poison). There is no specific antidote for yellow phosphorus poisoning (Reference attached).

4. The patient was kept on observation. On 30.12.2018 early morning at 03.30 a.m. Patient developed massive blood vomiting and his peripheral veins were collapsed. Hence to collect blood samples, femoral vein was punctured for collecting blood sample. Femoral vein is present in the upper part of thigh, near the private part. After taking sample, to prevent bleeding, we asked his father to compress the site with cotton. At 07.40 a.m., the patient had cardiac arrest and Cardio Pulmonary resuscitation started and given for 30 minutes. Since there was no response, death was declared at 08.10 a.m.

5. Postmortem will be conducted by our Assistant Professor usually. Video coverage in poison cases is not routine. In poison cases, the viscera is removed and sent to Forensic Medicine Laboratory for identifying the poison. In this case, Senior Professors are efficient and experienced available in our hospital. We are ready to do autopsy by our qualified efficient and Senior Professors in our Forensic Medicine Department."



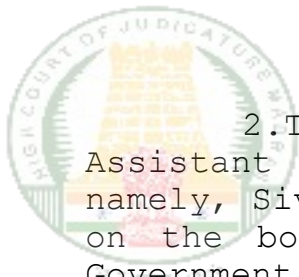
camera available in the postmortem centre at Government Rajaji Hospital, Madurai and that would be sufficient to record the postmortem. He would further submit that this is a special case of HIV infection and it is highly dangerous to the doctors, who would conduct postmortem. That is why, several safety measures have been provided to conduct postmortem in the case of HIV patients. He had also expressed difficulty in getting video-graph in this case.

12. Considering the rival submissions, this Court is of the considered view that it is the duty of the Government to eliminate the doubt from the victim and from the common man. In this matter, the media has given wide coverage to the issue and even according to the petitioner, on account of the media coverage, the petitioner's son was driven to consume poison. In such circumstances, it is the duty of Government to eliminate the doubt from the petitioner as well as from the common man. Though the petitioner had raised some doubt with regard to the intimation about the death by the doctors to the Press as well as to the district administration, they have not made any doubt with regard to the quality of treatment provided to the petitioner's son at Government Rajaji Hospital, Madurai. According to the petitioner, her son was immediately attended and on account of the treatment, he had also recovered to some extent and he was able to do his normal works, but on sudden collapse, he died on 30.12.2018.

13. It is pertinent to note that the Government Hospitals in New Delhi have been directed to video-graph the postmortem proceedings in sensitive cases with a view to ensure transparency in the police investigation. Even in Government Rajaji Hospital, Madurai, according to the third respondent, video camera is available in the postmortem centre and the third respondent, who is also present before this Court had also agreed to give the footage of that video-graph to the petitioner. In order to eliminate doubt, the respondents have also come forward to conduct postmortem in the presence of some other senior professors from other medical college hospitals. However, their apprehension is that it should not be treated as a precedent and it will open a floodgate to all the cases so that their work would be paralysed. This apprehension of the respondents is also accepted by the learned counsel for the petitioner and he had requested this Court to observe the same so that it cannot be treated as precedent in all the cases registered under Section 174 Cr.P.C. The bona fide offer made by the respondents to conduct postmortem along with the Assistant Professors from other colleges is welcoming fact, which would eliminate the doubt from the petitioner as well as the common man.

14. Under such circumstances, this Writ Petition is allowed with the following directions:-

1. The postmortem shall be conducted as provided in the circular of the Director of Medical Education in R.Dis.No.13005/PAI/08 dated 09.09.2018.



2.The third respondent shall avail service of the two Assistant Professors from any of the neighboring medical colleges namely, Sivagangai, Tirunelveli and Theni and conduct the postmortem on the body of Ramesh along with the senior professors of the Government Rajaji Hospital, Madurai.

3.The third respondent shall find out the possibility of taking video-graph of the postmortem. In any case, there is nobody available for taking video-graph, the third respondent shall ensure the possibility of adding two more video cameras in the postmortem centres to cover the postmortem in other angles also. In case, it is not possible within short duration, it may be intimated to the petitioner in advance so that the petitioner shall arrange for video-graph. If the petitioner is offering for video-graph, it shall be permitted by the third respondent.

15.It is made clear that the relief sought for in this case is granted by consent on the special circumstances of this case. This cannot be treated as a precedent in all the cases registered under Section 174 Cr.P.C. However, as the postmortem is a crucial factor in proceeding with the case of homicide and suicide, the Government shall ensure the possibility of erecting the video cameras in all the postmortem centres to ensure the transparency.

Sd/-

Vacation Officer(CS-II)

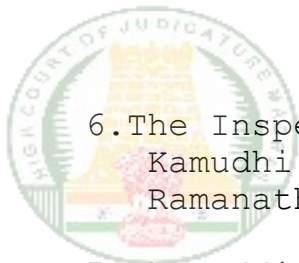
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Sub Assistant Registrar(CS-III)

To

- 1.The Home Secretary,  
Government of Tamil Nadu,  
Secretariat, Chennai-9.
- 2.The Director General of Police,  
DGP Office, Mylapore,  
Dr.Radhakrishnan Salai,  
Chennai-5.
- 3.The Dean,  
Government Rajaji Hospital, Madurai-20.
- 4.The District Collector,  
Ramanathapuram, Ramanathapuram District.
- 5.The Secretary,  
Health and Family Welfare Department,  
Secretariat, St.George Fort,  
Chennai-600 009.





6.The Inspector of Police,  
Kamudhi Police Station,  
Ramanathapuram District.

7.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+3CC to M/s.Henri Tiphange, Advocate, SR.No.101984  
+1CC to the Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai, SR.No.101985

W.P. (MD) No.25578 of 2018  
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ES/BK/SAR 3/31.12.2018/7P/12C