

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.27578 of 2012

Aleyamma Joseph @ Mini

... Petitioner

Vs.

1.The Inspector of Police,
Tiruvannamalai Town Police Station,
Tiruvannamalai.

2.Superintendent of Police,
Tiruvannamalai District.

3.The State of Tamil Nadu,
Rep. by Secretary (Home),
Fort St. George, Chennai – 600 009.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, direct the 3rd respondent to i) appoint a Judicial Commission headed by a retired Judge of the High Court to investigate into the conspiracy to and murder of Raj Mohan Chandra; ii) probe into the acts of various persons exposed by him; iii) award compensation of Rs.1 Crore to the petitioner.

For Petitioner : Mrs.Akila.R.S
For M/s. Sudha Ramalingam

For Respondents : Mr.M.Rajendran,
Additional Government Pleader,
For R1 to R3.

ORDER

The Writ on hand has been instituted to direct the State of Tamil Nadu to appoint a Judicial Commission headed by a retired judge of the High Court to investigate into the conspiracy of murder of Raj Mohan Chandra, probe into the acts of various persons exposed by him and award a compensation of Rs.1,00,00,000/- to the petitioner.

2. The petitioner is the wife of the deceased Raj Mohan Chandra, who was murdered on 02.07.2012 at around 06.00 hours by armed persons, who sprinkled some substance on his face and brutally assaulted him on the road from Tiruvannamalai to Chengam, opposite to Singa-Muga-Theertham, resulting in his death.

3. The petitioner/wife was a witness to the occurrence. The

petitioner, who is the wife of the deceased, preferred the complaint and F.I.R was registered in Crime.No.1051 of 2012 on the file of the Town Police Station, Tiruvannamalai on 02.07.2012 at 16.00 hours against Venkatesan, Selvam, Veerasamy, Meenatchi, and few others.

4. The petitioner states that her husband was a law abiding citizen, who was socially conscious and worked tirelessly for the faceless and voiceless persons and for the neighbourhood to seek justice. The husband of the petitioner exposed the illegal acts of several police/Revenue Officers, members of the bar and a Judicial Magistrate. He exposed illegal Katta Panchayats, land encroachments, sand thefts etc. As a result of his proactive engagements, he reaped powerful enemies who had threatened him on several occasions.

5. The husband of the petitioner was an Engineering Graduate. He learnt law and used it effectively in his quest for social work. He questioned the acts of miscreants in the society by effectively making use of the fourth estate and taking recourse to Courts of law. The petitioner narrates various

social services rendered by her husband.

6. The petitioner states that her husband has initiated actions before the State Human Rights Commission and secured compensation for the victims. Many such services are elaborated in the affidavit filed in support of the writ petition.

7. It is an unfortunate case, where a social activist was murdered by some miscreants and the case was registered in the year 2012. The petitioner filed the present writ petition immediately seeking the relief to appoint a Judicial Commission and probe into the acts of various persons and also for compensation.

8. However, the respondents conducted the investigation and completed the investigation and filed a final report on 27.09.2012. Thereafter, the case was taken in SC.No.14 of 2014 on the file of District Judge Sessions Court, Tiruvannamalai on 26.02.2014.

9. The learned Additional Government Pleader relying on the

counter affidavit has stated that totally ten accused persons are in this case, out of which two accused persons died and the case is being regularly followed and represented before the District and Sessions Court, Thiruvannamalai by the prosecution.

10. The case was posted on 07.12.2021 for framing charges. The Superintendent of Police has further stated that they are taking earnest steps to serve the copy of the charge sheet on all the accused enabling the Court to conduct effective trial. As far as the prosecution is concerned, there were no delay in pursuing the matter. He would further submit that the husband of the petitioner had also conducted Katta Panchayats in real estate matters and at one point of time the Police authorities warned him not to involve in such matters. In view of the same, the husband of the petitioner, the deceased earned many enemies and finally resulted in commission of the offence.

11. The case on hand is an unfortunate event wherein a social activist was murdered by some persons. In such cases where an innocent activist is murdered, a sort of sensitivity must be shown by the Police

officials as well as by the Courts by conducting the trial as expeditiously as possible. If there is delay in conducting trial in the cases of committing a cruel act of murder in respect of such activist, it will provide encouragement to such miscreants to commit further crimes of this nature. When an innocent person who served for redressing the grievances of the voiceless people is murdered, then the Courts are also bound to conduct trial in a speedy manner to provide justice to the victims.

12. The writ petition is filed raising doubts in respect of State Police and they sought for the relief to appoint a Judicial Commission headed by a retired judge of the High Court and to investigate into the conspiracy. However, the Police Authorities acted swiftly and filed the final report on 27.09.2012 itself and thereafter, the case is being adjourned for about eight and half years and till today the charge sheet has not been served to all the accused and the charges are yet to be framed by the Sessions Court.

13. This being the status of the case on hand, this Court is of the opinion that speedy trial being a right of the victim, such relief is to be granted to the petitioner. The petitioner lost her husband for no fault of him but on account of the social services rendered to the poor and needy persons.

14. Adjournments can never be claimed as a matter of right, but as an exception. Thus, Courts are expected not to grant adjournments in a routine manner. Mechanical adjournments of the cases must be avoided. No doubt on genuine reasons, adjournments are to be granted, but by recording reasons and not otherwise. Adjournments are enemies to the justice delivery system. Thus, it is to be granted in judicious manner and by recording reasons. It is true that adjournments are sought for in a convincing manner mostly on flimsy reasons. Courts are also considering adjournments rather feel it convenient or out of laziness. It is not out of way to mention that sometimes, Courts are also expecting the learned counsels to seek adjournments. Such mind set, at no circumstances, be encouraged and the agony of the people, who all are waiting and longing to get justice, must always be the ringing bell in the mind of the Courts. Even in case of

adjournments on genuine grounds, long adjournments shall not be granted, except on the ground if such adjournments are imminent. Prolonging and protracting the case is the tactics being adopted by certain legal brains. Courts shall not pave way for such ideas of either of the parties.

15. Thus, the Courts must try to ensure that the grievances of the needy persons are considered and in appropriate cases speedy trial has to be conducted. Judicious approach in this regard is imminent and the cases which require urgent hearing are to be identified and the speedy trial must be conducted in respect of those cases. Thus application of mind, in the matter of grant of adjournments are certainly required. Even in this case adjournments are being granted for the last eight years and the charge sheet has not been served to the accused persons and the matter was lastly listed on 07.12.2021 and it is further posted for hearing on 10.02.2022. Such long adjournments are to be avoided in such nature of cases.

16. Therefore this Court is of the opinion that adjournments are to be granted only by recording reasons and the reasons must be genuine and in the absence of any valid reasons, no adjournments must be granted and the trial must go on.

17. Under these circumstances, this Court is inclined to pass the following orders.

1) The District and Sessions Court, Thiruvannamalai is directed to advance the date of hearing to any other date in the first week of January 2022 and on that date, the process of serving the charge sheet shall be completed and thereafter, the trial should be commenced without causing any further delay.

2) The District and Sessions Judge, Thiruvannamalai is directed to proceed with the trial and dispose of the case within a period of six months from the date of receipt of a copy of this order. It is made clear that unnecessary adjournments should not be granted and even in case of any request for adjournment, the reasons must be recorded.

18. With these directions, the Writ Petition stands disposed of. No costs.

08.12.2021

Jeni/kmm
Internet : Yes
Index : Yes
Speaking order : Yes

Note:Issue order copy on 13.12.2021.

To

- 1.The Inspector of Police,
Tiruvannamalai Town Police Station,
Tiruvannamalai.
- 2.The Superintendent of Police,
Tiruvannamalai District.
- 3.The Secretary (Home),
The State of Tamil Nadu,
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S.M.SUBRAMANIAM, J.

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