

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.5058 of 2015

and

M.P.No.1 of 2015

M.Syed Ali Fathima

...Petitioner

-Vs-

1. State, Rep. by
The Secretary to Government,
Home Department,
Fort St. George, Chennai-9.
2. The Director General of Police,
Santhome High Road, Chennai-4.
3. The District Collector,
Chengalpattu.
4. The Commissioner of Police,
Tambaram.
5. The Assistant Commissioner of Police,
Selaiyur.

(R3 to R5 substituted in place of previous deleted respondents vide order dated 15.02.2023 made in WP. 5058/2015 by ASMJ)

6. M/s. Ever Green Rehabilitation Centre,
Now Changed as M/s.Matram Foundation,
Door No.290B, Kousalya Nagar,
Rajiv 1st Street, Manimangalam,
Kovilambakkam, Chennai-117.

7. The Director
Institute of Mental Health,
Medavakkam Tank Road,
Kilpauk, Chennai-10.

...Respondents

(R-7 impleaded as per order dt.3.3.15 of TSSJ in MP.2/15 in WP.5058/15)

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the Respondents 3 to 5 to cancel the license of the 7th respondent and further directing the 7th respondent to pay compensation for petitioner husband's death as per petitioner's representation dated 18.01.2015 for Rs.10 Lakhs within a stipulated period that may be fixed by this Honourable Court.

For Petitioner : Dr.S.K.Kumaran

For Respondents :
(for R1 to R5 & R7) : Mr.P.Kumaresan, AAG, assisted by
Mr.S.Ravichandran, AGP.
(for R6) : Mr.S.Arockiam

ORDER

The writ on hand has been instituted to direct the respondents 3 to 5 to cancel the license of the second respondent and further direct the 7th respondent to pay a compensation for the husband of the petitioner who died.

2.The petitioner states that she got married to Mr.Mohammed Rahim 15 years ago and two children are born from and out of their wedlock. Her father-in-law was running a mutton stall business for more than 50 years in Pallavaram area and the husband of the petitioner was employed in his father's business stall. The father-in-law of the petitioner lost his business due to which the husband of the petitioner got mentally stressed and he was taken to Raj Hospital at T.Nagar for treatment. As per the recommendations of the Doctor of the said hospital, the husband of the petitioner was admitted at one M/s.Ever Green Centre at Cithalapakkam near Medavakkam for treatment.

3.The said Ever Green Centre has been claiming and running a centre for drug addicted rehabilitation and for the treatment of other

illnesses. At that point of time, it was registered and approved by the Government of Tamil Nadu in Licence No.134 and Registration No.146/2013. Thus, the petitioner agreed to treat her husband in the said Ever Green Centre.

4.The petitioner paid a sum of Rs.12,000/- (Rupees Twelve Thousand only), as demanded by the centre, for providing treatment to her husband. The, receipt was issued to her with regard to her payment. The petitioner agreed for the terms and conditions. On 20.01.2014, at around 5:45 am, the father-in-law of the petitioner received a phone call from the Ever Green Centre, stating that the husband of the petitioner was in a serious condition. Thereafter, the husband of the petitioner was admitted in the ICU Ward in Global Hospital for treatment. When the petitioner proceeded to the hospital, she came into a state of shock and disbelief to see her husband with her family members. Even before, the petitioner reach the hospital along with her relatives, the husband of the petitioner was dead with injuries and blood marks all over his body.

5.The Inspector of Police received a complaint given by the petitioner and registered a case in Crime No.70/2014 and the said case was

subsequently altered for the alleged offence under Section 304 of IPC. In view of the fact that the husband of the petitioner was brutally attacked by the men and management of Ever Green Centre, the present writ petition is filed seeking compensation and for further action.

6.The writ petition is pending for the past more than 7 years. When it was listed for hearing before this Court on 14.03.2023, an interim order was passed directing the District Social Welfare Officer, Chengalpattu, to conduct an inspection and provide information to this Court, so as to consider the case of the writ petitioner. It is brought to the notice of this Court that the Ever Green Centre management changed their name as Green Care Rehabilitation Centre and shifted their address to Plot No.28, Door No.15/279, Raju Street, Mooval Nagar, Pozhichalur, Chennai 75. Though the Ever Green Rehabilitation Centre has been impleaded as party in the writ petition, they have not chosen to appear and defend their case.

7.The learned Additional Advocate General, appearing on behalf of the state, made a submission that the criminal case registered is in progress and the charge-sheet is filed on the file of the Judicial Magistrate Alandur. Therefore, the Trial has to be commenced and the case is to be disposed of

at the earliest possible time since it was registered in the year 2014. The learned Additional Advocate General further made a submission that the District Social Welfare Officer conducted an inspection and found that the Centre is running in the shifted place at Pozhichalur and the officials also found that the requisite permission and license was not obtained from the competent authorities under the statute and rules in force.

8. Such rehabilitation or de-addiction centres cannot be run by any individuals without obtaining a proper permission and license from the competent authorities. In this regard, the social welfare officer is bound to initiate appropriate action. Periodical inspection of such institutions are essential in order to safeguard the public interest. It is brought to the notice of this Court that the centre has obtained license from the Institute of Mental Health, Kilpauk, and therefore, its Director is duty bound to conduct inspection periodically in order to find out the administrative affairs of the centres.

9. In the present case, no such inspection has been conducted which will lead to commission of such irregularities and illegalities. In view of the fact that the charge-sheet has already been filed in the Criminal Case,

the Judicial Magistrate has to commit the case to the Sessions Court since the charge is filed under Section 304/2 IPC, which is to be tried by the Sessions Court.

10. Accordingly, the Judicial Magistrate Court-II, Alandur, Chennai, is directed to commit the case registered in Crime No.70/2014 to the Sessions Court within a period of two (2) weeks from the date of receipt of a copy of this order and the Principle District and Sessions Court at Chengalpattu is directed to dispose of the Criminal Case within a period of four (4) months from the date of committing the case by the learned Judicial Magistrate.

11. The 7th respondent/Director of Institute of Mental Health, Kilpauk, Chennai, is directed to inspect the Green Care Rehabilitation Centre at Pozhichalur, Chennai, within a period of one (1) week from the date of receipt of a copy of this order and initiate all appropriate actions if any lapses are identified. The Directorate is duty bound to conduct periodical inspection of all such centres to ensure that the centres of such private persons are being run in accordance with the law and by following the rules and regulations.

12.The petitioner is at liberty to pursue the Criminal Case before the Session's Court. It is also made clear that subject to the outcome of the criminal case, the petitioner is at liberty to claim compensation in accordance with the law, more specifically, under Section 357 of Cr.P.C.

13.With all these directions and liberties, the writ petition stands **disposed of**. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

17.03.2023

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Index : Yes/No

Speaking / Non Speaking Order

Neutral Citation : Yes/No

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