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"Essential To Unearth Truth": Madras HC Directs Re-Postmortem Of Dead Body Of Man As His Wife Raises Suspicion About Custodial Torture

By Swasti Chaturvedi | 19 May 2024 7:00 PM

The Madras High Court directed the re-postmortem of dead body of a man as his wife raised suspicion that he died on account of custodial torture. The wife of the deceased man had filed a writ petition seeking a Writ of Mandamus to exhume



the dead body from burial ground and to conduct a re-postmortem by doctors. A Single Bench of Justice R. Sakthivel observed, “In view of the facts and circumstances of the case, this Court is of the view that, the suspicion of the petitioner that her husband died of custodial torture is reasonable and cannot be brushed aside easily. For the same reason, the enquiry contemplated under Section 176 of Cr.P.C., is also essential to clear the clouds and unearth the truth. It would not cause any prejudice to the respondents. As a matter of fact, if re-postmortem is conducted and the result negatives the contention of the petitioner, it would enhance the reputation of the police among the public.”

Advocate Henri Tiphagne appeared for the petitioner while Government Advocate S. Udayakumar appeared for the respondents. In this case, the petitioner’s husband aged 43 years was allegedly taken into custody by the Sub-Inspector of Police, Villupuram in April 2024 from his workplace without following the guidelines issued in the case of D.K. Basu v. State of West Bengal [1997 (1) SCC 416]. As per her, the deceased was illegally detained and subjected to custodial torture by the police personnel due to which he sustained injuries that deteriorated his health. Upon realising his health condition, he was handed over to his employer and was advised to take treatment. Post first aid, he was brought home by his colleague and at that time, he informed the petitioner

(wife) that he was subjected to custodial torture by four police personnel including the Sub-Inspector by using lathis and by kicking and stamping him while wearing boots. The petitioner observed visible marks and injuries on the face and chest of her husband and he was crying in pain. She rushed him to the nearby hospital where he was declared 'brought dead'.

Thereafter, the death was intimated to the police station and the petitioner and her family members were not permitted to see the dead body. According to the petitioner, ten police personnel took her to the police station and obtained her signatures on blank papers. Then, the dead body was taken to the hospital for autopsy and the postmortem was conducted within 30 minutes. After that, the body was handed over in a hasty manner and the police personnel pressurized not to bury but cremate the body. However, as per the petitioner's customary practice, the body was buried. On returning home, the police personnel came there and pressurized the petitioner and family to exhume and cremate the body. Subsequently, a case was registered under Section 174 of the Criminal Procedure Code (CrPC) and as no action was taken by the police, the petitioner approached the High Court.

The High Court after hearing the contentions of the counsel noted, "The contention of the learned counsel of the petitioner is that, as per the Prisoner's Search Register, the petitioner's husband was released on station bail as he was feeling unwell and dizzy. If really the petitioner's husband was not feeling well while he was under the custody of the police, they themselves would have taken him to the hospital, which is not the case here. No Police personnel accompanied the petitioner's husband to the Primary Health Center. This also creates serious suspicion around the death of the deceased / petitioner's husband." The Court said that thus, Section 176 inquiry is essential to unearth the truth as the contention of the petitioner is plausible. In the interest of justice, the Court passed the following directions:

(i) Sixth respondent is directed to exhume the body of Raja, son of Kathavarayan, from Mukti Burial Ground, K.K.Road, Villupuram.

(ii) Third and eight respondents are directed to conduct re-postmortem with a team of two Doctors who have Master's Degree in Forensic Medicine, one from Madras Medical College, Chennai and another from KAP Vishwanathan Government Medical College, Trichy, at eighth respondent Hospital.

(iii) In case, if any of the Doctors is not available, then, a Doctor, who has the above mentioned qualification, either from Madurai Medical College, Madurai or Tirunelveli Medical College, Tirunelveli, can be nominated.

(iv) While conducting re-postmortem, the third and eighth respondents shall adhere to the norms and directions of this Court issued in Santhosh vs. District Collector, Madurai (W.P.No.12608 of 2020 dated 02.12.2020 updated on 28.02.2023).

(v) If, in case, the team of two Doctors so appointed, is of the view that re-postmortem needs to be conducted at the spot, even then, the norms and directions of this Court issued in Santhosh vs. District Collector, Madurai (W.P.No.12608 of 2020 dated 02.12.2020 updated on 28.02.2023) shall be followed strictly as far as possible.

(vi) If re-postmortem needs to be done on the spot, X-Ray examination shall be done mandatorily to find out the antemortem injuries, if any, on the deceased's body.

(vii) Respondent Nos.1,2,4 and 7, are directed to secure all the CCTV footages of the Villupuram Taluk Police Station pertaining to the time period between morning 06.00 a.m. of 09.04.2024 and evening 06.00 p.m. of 11.04.2024.

(viii) All the respondents are directed to follow the norms and directions of this Court issued in Santhosh vs. District Collector, Madurai (W.P.No.12608 of 2020 dated 02.12.2020 updated on 28.02.2023) strictly.

The Court ordered that the above directions shall be scrupulously carried out within eight days.

<https://www.verdictum.in/court-updates/high-courts/madras-anju-v-the-home-secretary-2024-mhc-2083-custodial-death-repostmortem-of-dead-body-1536144>