

(1990) 08 MAD CK 0047

In the Madras High Court

Case No : Criminal Miscellaneous Petition No. 3116 of 1985

G. Shyamala

APPELLANT

Vs

State of Tamil Nadu and others

RESPONDENT

Date of Decision : 21-08-1990

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (1993) 1 ALT(Cri) 724 : (1991) CriLJ 1471

Hon'ble Judges : T.S. Arunachalam, J

Bench : Single Bench

Advocate : P.V. Bakthavatchalam, for the Appellant; A. Hamid Sultan, Government Advocate, for the Respondent

Judgement

T.S. Arunachalam, J.—This petition has been filed under S. 482, Cr.P.C. for issue of directions to the Director General of Police, Madras,

or the Special Branch or C.I.D. Branch of Police, Madras, to investigate the cause of death of the petitioner's husband, Pulavar Gunasekaran.

2. The averments found in the petition have to be stated in brief for the disposal of this petition. The petitioner Shyamala had married the deceased

Pulavar Gunasekaran in or about 1972. Two children named Vennila aged about 13 years and Senbaga Pandian, aged about 11 years were born

out of the wedlock. The petitioner's husband was an active social worker, trade union leader and a staunch member of the A.I.A.D.M.K. Party.

About three years prior to April, 1985, when this petition was filed in this Court, the Government had arranged for starting a Co-operative

Spinning Mill at Uttanagarai in Dharmapuri District. The Government had also appointed one P. K. Periyaswamy as the Managing Director. The

said Periyaswamy and the petitioner's husband became very friendly and the

latter used to spend most of his time in the company of the former.

The petitioner's husband was elected as the Special President of the Spinning Mill Workers Union. As days passed on, the friendship between the two led to several evils including dishonest money making.

3. The petition states, that the petitioner was personally aware, that her husband was made a middleman to collect huge amounts to be paid to the

Managing Director towards appointment of workers, staff and for other considerations etc. Therefore, the petitioner's husband was aware of the

huge wealth accumulated by Periaswamy and his wife, who professed Meivazi Salai faith. The petitioner claims to be in possession of a letter

written by her husband in his own hand writing disclosing the unaccounted money and property acquired by Periaswamy. A rift arose between the

petitioner's husband and Periaswamy and thereafter they were at loggerheads. Naturally it resulted in enmity, ill-will and unpleasant interludes

leading to defamatory gossips. Only on the instigation of Periaswamy, when they were friendly, the petitioner's husband had collected huge

amounts from several unemployed persons assuring them of a job and had paid such collections to Periaswamy after deducting his meagre

commission. Periaswamy neither offered jobs for those persons nor returned the money taken. The reckless behaviour of Periaswamy put the

petitioner's husband to untold suffering.

4. While so, in December, 1984, during last General Elections the petitioner's husband went to his native constituency to work for his party

candidates, since his services were requisitioned in view of his being a public orator and poet. On 15-4-1984 the petitioner received a message at

or about noon, that her husband had died by committing suicide at Panamarathupatti, Salem. The shocked petitioner rushed in Panamarathupatti

only to find her husband's body kept ready for cremation. Quite against the usual custom in the family to bury the deceased, the body was

cremated rather hurriedly. The petitioner was shocked, dumb-founded and helpless, Since the death was sudden, even her relatives did not attend

the funeral of her husband.

5. The petitioner had reason to suspect that the sudden death of her husband could not be a case of suicide, but a case of planned murder by

Periaswamy and his henchmen. She sent complaints by registered posts to

several authorities including the Chief Minister of Tamil Nadu. Though the complaints had been acknowledged, the petitioner had not been intimated about any action taken by the concerned authorities. The petitioner understood, that the first information report had not even been registered, for suspicious death of Pulavar Gunasekaran. The grievance of the petitioner is that the probable culprits behind the murder of her husband being rich, powerful and influential, are able to thwart the due process of law.

6. It is under those circumstances that the petitioner had chosen to invoke the inherent powers of this Court.

7. This petition is admitted by T. N. Singaravelu, J., on 29-4-1985. Even in 1985 the hearing of the petition was adjourned on two occasions by

Sengottuvelan, J. After that, this petition went into wilderness till it was posted before me in late June, 1990. I directed the learned Government

Advocate to get information as to what had happened to the complaints sent by the petitioner, to respondents 2 to 4. After sometime the learned

Government Advocate informed this Court that the second respondent, the Superintendent of Police, Dharmapuri had received the complaint, and

the third respondent the Superintendent of Police, Salem District had not received it. This Court observed, that it was the duty of the second

respondent to have forwarded the complaint to the third respondent for investigation, because the alleged cognizable offence had taken place

within the jurisdiction of the Superintendent of Police, Salem District. Several further adjournments were afforded to the learned Government

Advocate, to put before the Court the nature of investigation conducted on the complaint of the petitioner. admittedly received by the second

respondent, who owed a duty, to have the complaint forwarded for proper investigation, to the jurisdiction police.

8. The learned Government Advocate on more than one occasion had expressed his helplessness in getting instructions from the investigating

agency and finally he represented today that in spite of his wireless message or 17-8-1990, nobody has turned up to instruct him. It is rather

unfortunate that the right and liberty of citizens are sought to be jeopardised by the negligent action of the respondents and it is equally shocking,

that the Government Advocate pleads helplessness to get instructions from the

police authorities. It would not have been very difficult for the learned Government Advocate to get in touch with the Inspector General of Police or Home Department of the Government of Tamil Nadu to enforce the presence of the respondents to suitably instruct him. It is very painful for the Court to find, that day-in and day-out the Government Advocate on the criminal side represents to the Court, that he is unable to get instructions even in matters pertaining to 1985. The attitude of the investigating police as well as the professed helplessness pleaded by the office of the Public Prosecutor, cannot but be commented upon, for the Courts owe a duty to safeguard the liberty of a citizen. It is often vociferously stated, that there are arrears pending in Courts, little realising that pendency in Courts is mostly due to the negligence of the law enforcing agency, as far as the Criminal Court is concerned. I hope the authorities concerned will take quick steps to remedy this "cancer" which affects the speedy administration of justice. The law enforcing agency, must realise, that they cannot afford to lose the confidence, the public have in them.

9. On the facts stated, it will be necessary for the Director General of Policy, Madras, to direct any subordinate authority of his choice, to have the complaint of the petitioner investigated, in accordance with law, as ordained under Chapter XII of the Criminal Procedure Code. It is always open for the investigating agency to collect materials during investigation and send a report either way to the Magistrate, of the investigation disclosing commission of offences by certain named persons or the first information report being a mistake of fact or not disclosing any of the offences, alleged. It will not be open to the respondents to put the complaint in cold storage and allow it to freeze without even representing to the Court as to what had happened to the complaint, after five years, in spite of incessant calls to them, having been made by the learned Government Advocate. This petition is allowed, with directions aforementioned, to the first respondent, the Director General of Police. A copy of this order is directed to be sent to the Director General of Police, Madras, as well as the Law Department of the State of Tamil Nadu.

10. Petition allowed.