

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.09.2015
DELIVERED ON : 28.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
W.P.No.1353 of 2015
and
M.P.Nos.1,2 and of 2015

M.Veerabatharappa .. Petitioner

Vs

1.The Secretary to the Government
Home Department
State of Tamil Nadu
Secretariat, Chennai 600 009.

2.The Director General of Police
Mylapore, Chennai.

3.The District Collector
Krishnagiri District.

4.The Inspector of Police
AWPS, Denkanikotta
Krishnagiri District.

5.The Joint Director
Central Bureau of Investigation (CBI)
Rajaji Bhavan, Besant Nagar
Chennai 600 090.

6.Muthappa

7.Madhappa

8.Chennabasappa @Rudra

9.Sithalinga .. Respondents

(R6 to R9 impleaded as per order dated 04.09.2015
in M.P.6/2015)

Writ Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents (a) to transfer the investigation pending in Crime No.20 of 2014 on the file of All Women Police Station, Denkanikotta to the 5th respondent to conduct fresh investigation on both gang rape and ex-communication; (b) to give adequate protection to the petitioner's family in all possible manner from being ex-communicated; (c) to include the necessary provisions in the FIR

and to enforce all the relevant provisions of POCSO Act and Rules in this case; (d) to provide adequate compensation and rehabilitative assistance to the victim child and the family; (e) to direct the 2nd respondent to register a case against the police officials for harassing the victim and the petitioner and being insensitive in such crimes.

For Petitioner Mr.C.Karl Marx

For R1 to R5 Mr.C.Emalias,
Addl.Public Prosecutor

O R D E R

This petition has been filed praying for a writ of mandamus directing the respondents:

(a) to transfer the investigation pending in Crime No.20 of 2014 on the file of All Women Police Station, Denkanikotta to the 5th respondent to conduct fresh investigation on both gang rape and ex-communication;

(b) to give adequate protection to the petitioner's family in all possible manners from being ex-communicated;

(c) to include the necessary provisions in the FIR and to enforce all the relevant provisions of POCSO Act and Rules in this case;

(d) to provide adequate compensation and rehabilitative assistance to the victim child and the family; and

(e) to direct the 2nd respondent to register a case against the police officials for harassing the victim and the petitioner and being insensitive in such crimes.

2. It is the case of the petitioner that his daughter, aged about 13 years, suffers from speech and hearing impairment and that on 25.12.2014, she was raped by four persons and that the police had botched up the investigation and therefore, he has sought for the aforesaid prayers.

3. It may be apposite to extract, verbatim, the version given by the petitioner in his affidavit before this Court.

"3. I state that on 25.12.2014, I along with my wife and 2nd daughter have harvested ragi crop which we have grown in our land and at about 5 p.m., my wife and daughter left home and I stayed there as usual to protect the harvested crop from wild animals. My daughter came back and gave food to me but did not return to home. At around 7 p.m. my wife shouted towards the field calling my daughter to return home. I got stunned as my daughter has went back an hour earlier and she ought to have reached home in 5 minutes but not returned even after an hour. Hence, I went searching for my daughter with a torch light and found her in an unconscious state amidst the bush.

I carried her to the House wherein I and my wife become stumbled to see blood stains in her clothes. On removing the clothes we noticed scars all over her body i.e. face, breast and thigh area and bleeding in her private parts. As we sprayed water in her face, she slowly returned to consciousness and started crying. Our daughter told us in action that four persons have waylaid her and has beaten her in the head with a log and had forcefully raped her. She suffered physical pain as well as mental aberration and showed several places in her body where the impression of teeth, scars are visible. As it was very late in the night and as there is no transportation at that time, I could not take her to the Hospital.

4. I state that the next day morning when we came out to go to Hospital, my daughter identified the four persons namely Muthappa, Madhappa, Rudhrappa and Chithalinga. I went to the General Hospital, Denkanikotta Taluk and there she was admitted as an inpatient on 26.12.2014. I and my daughter told the doctor that she has been raped by 4 persons. The Doctor told that the Hospital would inform the police and they would come to the Hospital and enquire. But no one enquired us and I was with my daughter expecting that the police would come and enquire as told by the Doctor."

4. The affidavit further proceeds to state that, since the police investigation was very tardy, several NGO's jumped into the fray in support of the petitioner, drawing the attention of the press and the Government, about which there will be a detailed discussion in the later part of this order. Suffice it to state that this incident had stirred the hornet's nest and the Collector and other revenue officials intervened in the matter. This petitioner filed this writ petition on 09.01.2015 and this Court had issued several directions. It may be relevant to extract the order that was passed on 30.01.2015.

"Heard Mr.N.G.R.Prasad, learned counsel for the petitioner and Mr.A.L.Somaji, learned Advocate General assisted by Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for R1 to R4.

2. Reference may be made to the order dated 21.01.2015 which reads as follows:-

" 2. The petitioner is the father of an young girl, who is alleged to have been gang raped and the petitioner has sought for transfer of the investigation of Crime No.20 of 2014 on the file of All Women Police Station, Denkanikotta to the CBI and to conduct fresh investigation, give adequate protection to the petitioner's family,

include the necessary provisions in the FIR, enforce all the relevant provisions of POCSO Act and Rules, provide adequate compensation and rehabilitative assistance to the victim and to direct the 2nd respondent, the Director General of Police to register a case against the police officials for harassing the victim and the petitioner being insensitive in such crimes and also for a further medical examination. It appears that a representation was sent by a NGO to the first respondent on 14.01.2015 and representation has been sent by the petitioner to the second respondent on 14.01.2015.

3. It is seen that the investigation is not proceeding in the right direction. The relevant IPC provisions have not been included in the FIR and there has been gross violation of the relevant provisions of POCSO Act. The petitioner would allege that the police while enquiring the victim has applied force for slapping and crushing small finger of her left hand with boots shoe. The enquiry was conducted by a Constable, which is in violation of the provisions of POCSO Act, where the enquiry should be conducted by a person not below the rank of Sub Inspector. Further, it is stated that the victim girl was not subjected to medical examination by a woman doctor.

4. In the light of the above contentions raised by the petitioner, the fourth respondent is directed to show cause in writing by 29.01.2015 as to why the case should not be transferred from the file of the fourth respondent.

5. Call on 29.01.2015".

2. Thereafter, the matter was posted on 29.01.2015 and at the request of the respondents, the matter has been posted today in the list. Today, the learned Advocate General has appeared in the matter and counter affidavit of the 4th respondent has been filed along with the typed set of documents. In paragraph No.5 of the counter affidavit, it has been stated that victim deposed before the learned Judicial Magistrate, Denkanikottai on 31.12.2014 night gave statement under Section 164 Cr.P.C., in which she has stated that she was enquired by the police present at the Government Hospital, Denkanikottai. Further, the learned Advocate General submitted that four accused have been

arrested and now that they are in judicial custody and lodged to the Sub-Jail, Hosur from 01.01.2014.

3.It is seen that the victim girl has spoken in her statement that there was an attempt of sexual assault on her. Before this Court proceeds to examine other contention raised by the petitioner, this Court is of the view that the victim girl should be subjected to medical examination at Head Quarters Hospital, Dharmapuri by a lady Doctor. Since this Court is seized of the matter and in order to ensure that there is no interference by any person with the family of the victim girl or with the victim girl, this Court is of the view that the accused, who are presently in the Sub-Jail, Hosur should be shifted to some other place outside Krishnagiri District.

4.Accordingly there shall be a direction to the 4th respondent police to shift all the four accused persons forthwith to the Central Prison, Salem from Sub Jail, Hosur. The respondent police is directed to complete the above direction given regarding medical examination within a period of one week and file a appropriate report. Post the matter for further direction on 13.02.2015.

5.The victim girl's father, who is the writ petitioner is agricultural coolie and on account of the present situation, it can be presumed that he will not be able to eek his livelihood and therefore for the subsistence of his family an adhoc payment should be directed to be made. Hence there shall be a direction to the 3rd respondent, who shall pay a sum of Rs.20,000/- (Rupees twenty thousand only) to the petitioner, it is made clear that this payment is not by way of compensation, but as a subsistence allowance till the matter is heard by this Court and further orders are passed."

5. Thereafter, on 13.02.2015, this Court passed the following order:

"Heard the learned counsel for the petitioner, the learned Advocate General for the respondents as well as the learned counsel for the petitioners who have filed impleading petitions.

2. The learned Advocate General submitted that the directions issued by this Court in its order dated 30.01.2015 have been complied with and the Prisoner has been shifted to the Central Prison, Salem and the solatium ordered to be paid at Rs.20,000/- has been paid to the petitioner.

3. When this Court asked the learned Advocate General as to whether the victim girl is in the custody of her parents, it is stated that she is in a private home at Hosur. It is further stated by the learned Advocate General that the Girl on her own volition staying in the Home and the respondent police have no objection for her being sent to her residence.

4. In the light of the said submission made by the learned Advocate General, it is open to the petitioner to request his daughter to join him in his residence and if she is willing, she can be permitted to go and live with her parents.

5. The learned Advocate General has filed a medical report submitted by the Assistant Surgeon, Government Dharmapuri Medical College Hospital, Dharmapuri along with the status report of the Inspector of Police. The report is placed on record.

6. In the light of the notification No.41/15 dated 06.02.2015, the matter has to be placed before the Hon'ble Bench dealing with Crl.OPs filed under Section 482 Cr.P.C. Hence, Registry is directed to place the matter before the appropriate Hon'ble Bench."

6. The Deputy Superintendent of Police, Thenkanikottai has filed a Status Report wherein it is stated as follows:

"The case of the prosecution is that on the information of the Hospital Personnel, the Sub Inspector Anchetty Police Station has visited to the Government Hospital, Denkanikottai and recorded the statement of Tr.Veerabadrappa (complainant/petitioner herein), stated that his pet dog had urinated in his neighbour Muthappa's House due to which a wordy quarrel took place. Subsequent to that, the complainant and his wife cleaned the area and left to their land to attend the routine work. On that night, his daughter Neelamma (dumb by birth) had given him the food in the field and returned to their residence. After the complainant return, he noticed the

absence of his daughter. On search, the complainant found his daughter was in a semi-conscious state in Madhappa's land and through signs and symbol, she alleged that she was assaulted by three persons warning her not to walk through the said pathway assaulted her over the head, abdomen and thigh area. After reaching their house, on subsequent enquiry, through signs and symbols, she reiterated to her father that on 25.12.2014 at about 18.00 hours, while returning from the field, near Madhappa's field, Madhappa, Muthappa, Basamma and Neelamma, all his neighbours, have assaulted her. Hence this complaint. In that complaint, he has affixed his left thumb impression. Copy of the complaint is filed.

3. I submit that on 26.12.2014, morning, one Chennabasappa of the same village visited Anchetty Police Station and preferred a complaint stating that due to petty quarrel that arose because of the pet dog issue, one Basamma, wife of the Veerabadrappa had abused them in front of the villagers and challenged them that they would would foist a case against all the family members of the Basappa alleging that they had attempted to molest his handicapped daughter. Copy of the petition is enclosed. Tr.Jalapathy, Sub Inspector of Police enquired all the villagers who came along with Chennabasappa and came to know in the preliminary enquiry that the complaint given by Veerabadrappa (petitioner) is false. Subsequent on that, 29.12.2014, the Sub Inspector of Police, Tr.Jalapathy left for hand-bust duty Srirangam. Hence, he could not proceed with the investigation.

4. I submit that the petitioner came to the Anchetty Police Station on 30.12.2014 along with Manjunath to enquire about the action taken upon his petition, Head Constable 1172 Tr.Nagaraj registered C.S.R.No.152/2014 on Veerabadrappa's complaint and C.S.R.No.153/2014 on Chennabasappa's complaint. Subsequently, on that day, when the petitioner went to Anchetty Police Station and alleged in his complaint that his daughter was sexually assaulted by four accused, Head Constable 1172 Tr.Nagaraj informed the same to the Inspector of Police. On getting instructions from the same to the Inspector of Police, Anchetty Police Station, Head Constable 1172 Tr.Nagaraj directed them to All Women Police Station, Denkanikottai. The Inspector of Police,

Anchetty Police Station Tr.Sivalingam was dealt with departmentally under rule 3(b) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules for the lapses on his regarding non registration FIR immediately on the said complaint, SI was suspended for the same reason.

5. I submit that the petitioner did not come to AWPS, Denkanikottai on 30.12.2014 as claimed by him. The petitioner had come to the AWPS, Denkanikottai accompanying one Manjunath only on 31.12.2014 and preferred a complaint before the Inspector of Police AWPS, Denkanikottai at 10.30 a.m. After receiving the complaint, a case was registered in Denkanikottai AWPS Crime No.20/2014 under Section 341, 323 r/w 5(g) & 6 of Protection of Children from Sexual Offences Act 2012 and investigation was taken up in action with law.

6. I submit that as per the complaint of the petitioner, Tmt.Jayam, Inspector of Police, AWPS, Denkanikottai has visited to the Government Hospital and preferred a requisition letter to the Medical Officer Dr.Sathya to conduct Medical test to the petitioner's daughter/victim girl. But the said Dr.Sathya has referred the victim girl to the Government Hospital, Hosur for examination by Gynaecologist. Then, the victim girl was taken to the Government Hospital, Hosur for examination. They reached the Government Hospital, Hosur at about 20.00 hours where Dr.Nandini physically examined the victim girl with the help of the interpreter Mrs.Thangam, teacher, Government Higher Secondary School for Differently Abled, Dharmapuri. The father of the victim girl also was present in the hospital.

Subsequent to that, the victim girl was produced before the Judicial Magistrate, Denkanikottai in Judicial Magistrate court and statement under section 164 Cr.P.C. was recorded on the night of the 31.12.2014 in the presence of the interpreter Mrs.Thangam. After completion of 164 Cr.P.C. statement, wherein the victim girl stated the "25.12.2014ம் தேதி சாயங்காலம் வயலில் வேலை செய்யும் என் அப்பாவிற்கு சாப்பாடு கொடுத்துவிட்டு இரவு 07.00 மணியளவில் வீட்டிற்கு திரும்பிவரும்போது இவ்வழக்கில்

சம்பந்தப்பட்ட எதிரிகள் 3 பேர்கள் தன்னை இந்த வழியாக வரக்கூடாது என்று வழிமறித்து முடியை பிடித்து இழுத்துச் சென்று வாயில் துணியைவைத்து அடைத்து தோள் மீது துக்கி சிறிது தூரத்தில் என்னை படுக்க வைத்து மார்பகங்களை கசக்கியதாகவும் அதில் ஒருவன் ஒடிவிட்டதாகவும் மற்ற இரண்டு பேரும் பான் பராக் போட்டு தன் மீது துப்பியதாகவும் தன்னை கன்னத்திலும் மார்பிலும் வயிற்றிலும் மாறிமாறி அடித்து காயப்படுத்தியதாகவும் அவர்கள் ஆடையை கழற்றிவிட்டு நின்றதால் தனக்கு பயம் ஏற்பட்டு தன்னுடைய நைட்டியை கெட்டியாக பிடித்துக்கொண்டதாகவும் தன்னை அவர்கள் அடித்ததால் உடம்பு, வலி ஏற்பட்டு மயங்கி விட்டதுடன் அவர்கள் ஒன்றும் செய்யவில்லை என்றும் கூறினாள்." The victim girl was again brought and handed over to Government Hospital, Hosur for further treatment. On 01.01.2015, the Medical Officer Dr.Nandhini has given the following opinion on the injuries noted over the victim.

1."INDIVIDUAL NEELAMMAL HAS NOT BEEN RAPED

2. NO EXTERNAL INJURIES OVER EXTERNAL GENITALIA HYMEN INTACT."

Age certificate of the victim girl was given by Dr.Lavanya, Radiologist, Government Hospital, Hosur and they have mentioned the age of the victim girl as around 17.

On the basis of 164 Cr.P.C. statement the sections of the case were altered into 376(D) r/w 5(11) IPC, 341, 323 IPC and Section 11(i) and (ii) and 12 of POCSO Act 2012.

The accused persons, namely 1) Muthappa (A-1), 2) Madhappa (A-2), Chennabasappa @ Rudra (A-3) and 4) Chithalinga (A-4) were arrested by Tmt.Jayam, Inspector of Police, AWPS Denkanikottai, Krishnagiri District on 01.01.2015 and remanded under judicial custody.

7. I submit that after completion of the Medical examination, the victim girl was handed over to the petitioner/father of the victim girl by the Inspector of Police, AWPS, Denkanikottai on 02.01.2015.

8. I submit that Tmt.Lakshmi, Tahsildar, Denkanikottai has stated that the victim girl feared to go along with parents and so she was handed over to the home of Narendra Nambikai Nachathiram in Hosur on her request.

9. I submit that on the complaint of the petitioner, regarding communication C.S.R.No.4/2015 of Anchetty Police Station was issued and all the counter petitioners Chennappa aged about (60), S/o Sarmappa, 2. Mthirappa (55), S/o Madhappa, 3.Rudhran (50) S/o Noorundappa and 4.Abbaya (35) S/o Rudrappa, all from Kolkochavoor, Kodakarai were enquired in the village itself.

During enquiry, it was learned that there was a previous enmity between the complainant and the accused party. Both are neighbours/relatives and 5 years back, the elder daughter of Veerabadrappa Sidhalinga (A-4) Veerabadrappa who is basically a reserved person and he used to move on his own. It is also learnt that the complainant and the accused Siddalingappa (A-4) have political rivalry. Moreover, as the lands and residence of the complainant and accused are nearby, frequent quarrels used to take place which also led to false and exaggerated complaint.

10. I submit that I have been directed to enquire into the issue. I have visited the village and enquired in person. In addition to that, Revenue official and Social Welfare Department officials also visited the village and cause enquiry. They have confirmed that there was no harassment and ex-communication as alleged. All the villagers denied the allegations and assured the officials that they would not interfere in the routine of the petitioner and his family. The allegations levelled against the police that he was denied basic rights are false and baseless.

12. I submit that as per the interim directions of the Honourable High Court, Madras in W.P.No.1353/2015 which was filed by the petitioner, the respondent police have taken the following steps:

(i) The accused (A-1 to A-4) were transferred to Central Prison, Salem from Sub Jail, Hosur.

(ii) The victim girl was re-produced before Dr.Girija, D.G.O., Government Medical College Hospital, Dharmapuri for re-examination of Medical Test on 01.02.2015. The Medical Reports reveals that "Per vaginal examination findings : Heymen not intact vagina admit 2 finger". "There is no evidence of recent sexual Act".

(iii) The petitioner obtained the Farmer funds of Rs.20,000/- from the Collector Office, Krishnagiri District.

13. I submit that the then Deputy Superintendent of Police, Tmt.Thangavalli took up the further investigation and recorded the further statement of victim girl Neelamma, wherein she stated that "என் அப்பாவிற்கு சாப்பாடு கொடுத்துவிட்டு இரவு, திரும்பி வீட்டிற்கு வரும்போது இப்போது நீங்க போட்டோவில் காட்டிய நான்கு பேரும் இந்த போட்டோவில் உள்ளவரின் நிலத்தில் நின்றவர்கள் இந்த (சித்தலிங்கா) போட்டோவில் உள்ள இவர் மட்டும் சற்று தொலைவில் நின்னார். இந்த மூன்று போட்டோவிலும் உள்ளவர்கள் என்னை வழிமறித்து என்னை தடுத்து நிறுத்தி என்னை அடித்து நீ இந்த வழியில் வரக்கூடாதுன்னு சொல்லி கையால் மாறி மாறி அடிச்சாங்க. இந்த இரண்டு போட்டோவில் உள்ள இரண்டு பேரும் பான் பராக் போட்டு என் மீது துப்பினாங்க (முத்தப்பா மாதப்பா) மற்றவர்கள் துரமாக போய்விட்டனர். பின் இந்த போட்டோவில் உள்ளவர் (சென்ன பசப்பா) மிட்டாய் வாங்கி அவரை திட்டினேன். அவர் டிரஸ் சை கழற்றிவிட்டு நின்றார். என் தலைமுடியை பிடித்து இழுத்துச் சென்று கீழே படுக்க வைத்து என் மார்பகங்களை கசக்கியும், அவருடைய உடைகளை கழற்றிவிட்டு நான் அழுதும் விடாமல் என்னுடன் உடல் உறவு கொண்டார். நான் மயக்கமடைந்துவிட்டேன். நான் கண் விழித்து பார்த்தபோது வீட்டில் இருந்தேன். அடுத்தநாள் காலை என் அப்பா விசாரிக்க நடந்ததைச் சொல்ல அவர்களை அடையாளம் காட்டினேன்."

14. I submit that the then Deputy Superintendent of Police has sent a letter to the Assistant Professor, Department of Forensic Medicine, Government, Dharmapuri Medical College, Dharmapuri give his opinion.

1. Sexual examination report done at Govt.Hospital, Hosur.

2. Sexual examination report doctor at DGO GDMCH, Dharmapuri.

Chemical examination report of victims dress, vaginal swab and smear.

The Assistant Professor, Department of Forensic Medicine, Government Dharmapuri Medical College, Dharmapuri gave the answer as following:

"On consideration of documents of the above references the ruptured hymen of victim girl concerned in the above crime number may be possible due to sexual intercourse."

15. It is submitted that after completion of thorough and detailed investigation, based on the statements of the witnesses and based on the Medical reports, I have laid a charge sheet against the accused (A-1 to A-4) in Denkanikottai AWPS Crime No.20/2014 under Sections 341, 323, 354, 376 IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act 1998 and 7 r/w 8 and 11 (i) (ii) r/w 12 of the Protection of Children from Sexual Offences Act 2012 and 7 r/w 8 r/w 17 and 11 9(i) (ii) r/w 12 r/w 17 of Protection of Children from Sexual Offences Act 2012 and 5(k) r/w 6 r/w 17 of Protection of Children from Sexual Offences Act 2012 on 18.03.2015 before the Fast Track Mahila Court (Sessions), Krishnagiri District and the same is yet to be taken on file.

7. It is asserted by the petitioner that, his daughter was subjected to rape by four persons, but the police asservation is otherwise. Despite the grouse of the petitioner, the police have now arrested the four accused, as desired by the petitioner, and have filed a Final Report against them for POCSO offence before the Special Court, which is now pending as Spl.S.C.No.15 of 2015. The petitioner is not happy with this and he wants all the four accused to be prosecuted for the rape of his daughter. In short, he wants his Shylockian revenge by having the blood and scalp of all the four accused. At the first blush, the allegations did sound loathsome because the victim is a small child who is said to be suffering from speech and hearing impairment.

8. When the case came up for admission on 29.06.2015, this Court passed the following order:

"The learned Additional Public Prosecutor submits that the investigation in Crime No.20/2014 has been completed and final report

has also been filed before the Mahila Court, Krishnagiri.

The respondent police is directed to give the copy of the final report, 161 Cr.P.C. statement, Medical report and 164 Cr.P.C. statement to the defacto complainant within a period of two weeks from the date of receipt of a copy of this order.

Post the matter after two weeks 'For orders'."

9. Again on 27.07.2015, when this case came up for hearing, the learned counsel for the petitioner was insisting that, a fresh investigation by the CBI should be ordered. This Court observed that this petitioner had not made the accused as a respondent in this case, but he was asking for stay of further proceedings and other reliefs behind their back knowing full well that the accused are in jail and that if further stay is granted, they will suffer continued incarceration for no fault of theirs. Therefore, this Court grudgingly passed the following order:

"It is alleged by the petitioner that his minor daughter was subjected to gang rape by four persons in respect of which, a case in Denkanikottai AWPS crime No.20 of 2014 under Section 341, 324 IPC and Section 5[g] and 6 of Prevention of Children from Sexual Offences Act [POCSO], 2012 was registered by the Police and Section 164 Cr.P.C statement of the minor girl was recorded.

2. In this transfer application, the petitioner has made allegations against the Police that they have not properly conducted the investigation and that they have left out some of the accused.

3. It is seen that the Police arrested all the four accused who were named by the victim. Now a Final Report has been filed including offences under the POCSO Act against the accused before the Mahila Court.

4. Learned counsel submitted that the Police have failed to include Section 376D IPC in the Final Report. This Court explained to the learned counsel that charges are not framed, based on the opinion of the Police officers by the Court, but are framed based on the materials collected during investigation like Section 164 Cr.P.C statement of the victim girl, etc. This Court also explained that a child victim under the POCSO Act should be examined by the Court with several safeguards and during the course of

the evidence, if new names surface, they can also be included as accused under Section 319 Cr.P.C. This Court further explained that the 164 Cr.P.C statement recorded by the Magistrate cannot be suspected without adequate grounds thereof. This Court further explained that if further investigation is ordered, it will be the accused, who will enjoy the stay. The learned counsel for the petitioner did not seem to relent.

5. The Hon'ble Supreme Court in State of Punjab Vs Davinder Singh Bhullar 2011 [14] SCC 770 has held that when there is a prayer for CBI investigation, the accused should be made party. Hence, this petitioner is directed to file impleading petition to implead the accused as a party in this case.

In view of the above, there shall be an order of interim stay.

6. Notice of motion returnable in four weeks. Private notice permitted."

10. Ultimately after hearing the petitioner and the learned Additional Public Prosecutor, on 02.09.2015 this Court reserved orders and in order to satisfy its judicial conscience, directed the police to submit the entire Case Diary for perusal. Accordingly, the Case Diary was submitted in a sealed cover. The trial Court records were also called for. This Court plodded through the entire Case Diary and the trial Court records and observed startling facts. Several probabilities occurred in the mind of this Court; may be the accused were total strangers to the petitioner and that they had perpetrated this offence to give vent to their sexual appetite; or that the accused are feudal landlords in the countryside and the petitioner's family were their vassals, taking advantage of which the act was committed etc. All these hypothesis were set to rest after minutely reading the papers submitted by the petitioner, the Case Diary and the Court records.

11. It is on record that the petitioner and the accused are relatives and were ordinary peasants, both eking out their livelihood by working in the fields. They share common boundaries and also harbour deep seated bickerings. What appears to have triggered the quarrel on the fateful day, i.e. on 25.12.2014, was the urination by the petitioner's pet dog in the house of the accused. A wordy quarrel seems to have ensued between the petitioner and his neighbour Muthappa. It is true that on 26.12.2014, the petitioner took his daughter to the Government Hospital Denkanikottai and admitted her. At the time of admission he had told the Doctor that, his daughter was assaulted by three known persons @ 8.30 p.m. on 25.12.2014. There was no rape allegation made by the petitioner. The hospital authorities intimated the local Anchetty police and Sub Inspector from there came to the hospital and recorded the statement of the

petitioner in which he has put his Left Thumb Impression. The said statement is handwritten and is in Tamil. In the said statement, the petitioner has stated that on 25.12.2014, he found his daughter lying on the way to his field, half fainted, and that when he questioned her, she told him that three persons had told her not to go by that way and had assaulted her on her head, stomach and thighs and threatened her. He brought her to his house and when she was questioned there, she told him that as she was passing by Madhappa's land, where Madhappa, Muthappa, Basamma and Neelamma had beaten her. This is the earliest version that was given by the petitioner to the police. In all fairness, the local police should have registered an FIR based on this statement which they did not do and for which the Government has rightly taken disciplinary action against the concerned police officials. On 26.12.2014, one Chennabasappa a neighbour of the petitioner, came to Anchetty Police Station, which is the jurisdictional police station, and lodged a complaint, in which he has stated that on 25.12.2014 the petitioner's dog had urinated in his house and that he had beaten the dog with a stick. On seeing this the petitioner's wife questioned him and abused him. A quarrel ensued and soon relatives of both parties ganged up and flared up. In that quarrel, the petitioner's wife appears to have thrown a challenge that she will lodge a complaint that her daughter was attempted to be ravished. The Anchetty Police Station received this complaint and did nothing.

12. On 30.12.2014, the petitioner went to the Anchetty Police Station and enquired about the fate of the oral complaint that he had given. On that day, the police registered his complaint as CSR No.152 of 2014. Similarly, on the complaint given by Chennabasappa, the police registered CSR No.153 of 2014. This Court called for the records of CSR Nos.152 and 153 of 2014. According to the petitioner, he went to the All Women Police Station, Denkanikottai on 30.12.2014, but according to the police, he came there only on 31.12.2014. However, on 31.12.2014, the petitioner gave a typewritten complaint alleging that Muthappa, Madhappa, Rudhra and Sidhalinga all close relatives, had raped his daughter at 7.00 p.m. by gagging her mouth and assaulting her. A copy of the typewritten complaint has been marked to the District Collector and Hon'ble Chief Minister. On the strength of this complaint, the All Women Police, Denkanikottai registered a case in Cr.No.20 of 2014 under Sections 341, 323 IPC and 5(g) and 6 of the POCSO Act. Thus there are two versions, namely in the first complaint given by the petitioner there was no allegation of rape and he had only stated that, three persons had beaten his daughter. Even on 26.12.2014, when he had taken his daughter to the hospital, he did not state that his daughter was raped. Even to the doctor he had stated that only three persons had assaulted his daughter. For the first time on 31.12.2014, the allegation of rape surfaces in the typewritten complaint. Even according to the petitioner, in his affidavit before this Court he has stated as follows:

"6. I state that as such on 30.12.2014 at about 8 p.m. I went to the AWPS, Denkanikotta

wherein the said Inspector Jayam has arrived and on hearing the case assured to take immediate action and asked me to come on the next morning. On 31.12.2014, I went to the station at 7.30 a.m. and waited till 10.30 a.m. but the Inspector had not come. Hence, I got dejected and returned to Hospital wherein I found the District president of Tamilnadu Association for the Rights of All Types of Differently Abled and Caregivers - TARATDAC, Mrs. Shyamala and District Office bearers of All India Democratic Women's Association, AIDWA who introduced themselves and told that they heard the sexual assault on my daughter and assured their assistance.

13. From the above it is clear that, by 31.12.2015, NGO's got involved in the matter and they also announced an agitation, about which the petitioner has stated in paragraph 8 of his affidavit.

"8. I state that but no FIR was registered till 31.12.2014. Hence, on 31.12.2014 the TARATDAC announced an agitation on 02.01.2015 demanding registration of FIR and arrest of the accused. On the same day at about 6 p.m., Inspector Jayam and constable Karpagam have discharged my daughter and took us to Hosur stating that a medical test has to be done at Hosur Hospital. The Hospital authorities did not give the discharge summary to me. I and my daughter were taken to AWPS, Hosur at midnight on the new year day. The police took my daughter inside and asked me to go elsewhere and come in the morning. I was advised to state that as per the provisions of the Protection Children from Sexual Offences Act 2012, the police ought not to have enquired in uniform and not to have taken my daughter to the police station but the police has kept her in the police station in the night.

14. After registering the FIR, on 31.12.2014 itself the victim girl was produced by the police before a lady Magistrate, Ms. P.C. Savithri, Denkanikottai for the purpose of recording her statement under Section 164 Cr.P.C.

15. In accordance with the law laid down by the Supreme Court in State of Karnataka v. Shivanna [2014(8) SCC 913], wherein in para 10.1 and 10.2 it is stated as follows:

"10.1. Upon receipt of information relating to the commission of offence of rape, the investigating officer shall make immediate steps to take the victim to any Metropolitan/preferably Judicial Magistrate for the purpose of recording her statement under

Section 164 Cr.P.C. A copy of the statement under Section 164 Cr.P.C. should be handed over to the investigating officer immediately with a specific direction that the contents of such statement under Section 164 Cr.P.C. should not be disclosed to any person till charge-sheet/report under Section 173 Cr.P.C. is filed.

10.2. The investigating officer shall as far as possible take the victim to the nearest Lady Metropolitan/preferably Lady Judicial Magistrate."

the learned Magistrate recorded the statement of the victim girl with the help of an interpreter, Mrs.Thangam, who is a Teacher from the Government Deaf and Dumb School, Dharmapuri. In the statement before the Magistrate, the victim girl stated as follows (Translated from Tamil):

"I am residing at Keezh Kochchavur, Kodakaraï, Anchetty with parents. On the evening of 25.12.2014, around 7 p.m., when I was returning home after giving food to my father who was working in field, the three accused involved in this case intercepted me and told me that I should not use that path; Catching hold of my hair, they dragged me, stuffed cloth into my mouth and carried me over shoulder for a short distance. Later, they laid me down and squeezed my breasts. While one of them ran away, the remaining two persons spat Pan Parag used by them and injured me by repeatedly beating on my cheeks, chest and stomach. Since they were standing stripped off, I got frightened and held my nighty tightly. Since they beat me, I got fainted owing to body pain and they did not do anything. On the next day, i.e., 26.12.2014, my father took me to Denkanikottai Government Hospital and admitted me for treatment about 10 o' clock. Later on, the police came to the hospital and made enquiry."

16. On 01.01.2015 the victim girl was taken to the Government Hospital, Hosur, where she was examined by Dr.Nandhini, who has given the following opinion:

"1. INDIVIDUAL NEELAMMAL HAS NOT
BEEN RAPED
2. NO EXTERNAL INJURIES OVER
EXTERNAL GENITALIA HYMEN INTACT."

Now it is alleged by the petitioner that, all this was done by keeping him in the dark. This allegation cannot be countenanced

because, a police investigation is not a public inquest. It has to be done scientifically and the results would have to be kept in wraps, to be disclosed only when the Final Report is filed before the Magistrate. Until then, the Investigating Officer and the Magistrate will have access to the Case Diary under Section 172 Cr.P.C. on account of which they alone will be privy to the materials collected. In fact, a Full Bench of this Court in Selvanathan v. State [1988 L.W. (Cr1.) 503 (FB)] has gone into entire aspect of investigation and has held that until the Final Report is filed, facts relating to the progress of investigation cannot be made public as that would alert the accused.

17. On 01.01.2015 itself the police arrested Muthappa, Madhappa, Chennabasappa (Chennabasappa is also called Basappa) and Sidhalinga and they were produced before the learned District Munsif-cum-Judicial Magistrate, Denkanikottai who remanded them to 15 days judicial custody.

18. At this juncture, it may be necessary to once again chronologically recapitulate the entire concatenation of events.

- The setting in which the incident is said to have occurred is a remote village by name Keezh Kochchavur, located amidst forest area in the border District of Tamil Nadu and Karnataka. Keezh Kochchavur and Mel Kochchavur are two streets and there are around 14 and 15 families respectively living there. They all belong to Lingayat community and speak Tamil, Kannada and Telugu. The petitioner and the accused belong to the same social strata and they also are distantly related to each other. They work in the fields and also rear cattle for their living. The hut of Muthappa [A1] is located adjacent to that of the petitioner. Madhappa [A2] is the son-in-law of Muthappa [A1]. Madhappa's younger brother is Chennabasappa @ Rudra [A3]. Sidhalinga [A4] is a panchayat ward member belonging to AI ADMK party.
- On 25.12.2014, a quarrel ensued between the petitioner and his neighbour Muthappa [A1] in connection with the petitioner's pet dog urinating and passing stools in the house of Muthappa.
- On the same day, i.e. on 25.12.2014, this petitioner found his daughter [victim girl] in a state of swoon near his field and he brought her home.
- On 26.12.2014, at 10.15 a.m. he admitted her in the Government Hospital, Denkanikottai, where the victim girl was examined by Dr.Ranganathan. At the time of admission, the petitioner told the Doctor that the victim girl was assaulted by three known persons at 8.30 p.m. on 25.12.2014 in the working place. There was absolutely no allegation of rape or attempt to rape even.

Dr.Ranganathan in his statement to the police has confirmed this and his version is supported by the Accident Register copy. However, Dr.Ranganathan sent intimation to Anchetty police.

- T.R.Jalabathy, Sub Inspector of Police, Anchetty Police Station came to the hospital and recorded the statement of the petitioner and in that statement the petitioner has named four persons namely, Muthappa, Madhappa, Basamma, Neelamma of having only assaulted his daughter. There was no allegation of rape in that, as stated above. Basamma named by the petitioner is a woman and she is the wife of Muthappa. The statement does not contain a date. However, the Anchetty police have recorded CSR No.152 of 2014 on 30.12.2014. In fact, the Anchetty Police ought to have recorded an FIR which they failed to do, for which they are facing the music.
- On 30.12.2014, Chennabasappa @ Rudra [A3] lodged a complaint with the Anchetty Police alleging that, a quarrel ensued on 25.12.2014 between the petitioner's family and his family in connection with the petitioner's pet dog defecating in his house and in the course of the ensuing quarrel, the petitioner's wife challenged them that, she will have them arrested by alleging that they attempted to rape her daughter. The Anchetty Police received the complaint and recorded it as CSR No.153 of 2014.
- On 31.12.2014, Mrs.Shyamala, District President of Tamil Nadu Association for the Rights of All Types of Differently Abled and Caregivers [TARATDAC], and District Office bearers of All India Democratic Women's Association [AIDWA] came into the picture. [paragraph 6 of the petitioner's affidavit].
- On the same day, i.e. on 31.12.2014, the petitioner submitted a typewritten complaint alleging that, his daughter was raped by Muthappa, Madhappa, Rudhra (Chennabasappa) and Sidhalinga at 7.00 p.m. on 25.12.2014. Until then it was alleged that only 3 persons were involved and for the first time a fourth person, Sidhalinga's name surfaces in the complaint. Based on the complaint, the Inspector of Police of All Women Police Station, Denkanikottai registered a case on 31.12.2014 at 11.00 a.m. in Cr.No.20 of 2014 under Sections 341, 323 IPC, Section 5 and 6 of POCSO Act, 2012.

- On 31.12.2014, a public agitation on 02.01.2015, was announced by TARATDAC for the alleged inaction of the police.
- On 01.01.2015, Muthappa [A1], Madhappa [A2], Rudhra [A3] and Sidhalinga [A4] were arrested by the police and were produced for remand.
- On the same day, i.e on 01.01.2015, the victim girl was produced before Mrs.P.C.Savithri, Judicial Magistrate, Denkanikottai, who recorded the statement of the victim girl with the aid of Mrs.Thangam, an interpreter, who was specially requisitioned from the Government School for Deaf and Dumb. Even in that statement, the victim girl did not say that she was raped, but stated that she was assaulted by three persons.
- On 01.01.2015, the victim girl was produced before Dr.S.P.Nandini, MBBS, DGO, who examined her and noted that the hymen was intact and she opined as follows:
 - “(1) Individual xxxxxxxxxxxx has not been raped.
 - (2) No external injuries over external genitalia. Hymen intact.
- On 02.01.2015, Mrs.Sivaganthi, District Child Protection Officer, Krishnagiri District, went to Government Hospital, Hosur and examined the victim girl. In her statement to the police, Mrs.Sivaganthi has clearly stated that, the victim girl did not alleged that she was raped.
- On 02.01.2015, Revenue officials in the District at the level of Revenue Divisional Officer came into the scene. Mr.Jothilingam, RDO and Mrs.Lakshmi, Tahsildar examined the victim girl with the help of Mrs.Thangam, interpreter for Deaf and Dumb School, Dharmapuri, and Tmt.Sulochana, Headmistress, Government School for Deaf and Dumb. To them also, the victim girl did not allege rape. The Revenue Officials examined the petitioner, his wife and several villagers. Mrs.Basamma, W/o Muthappa [A1] in her statement to the Revenue Officials has spoken about the quarrel that occurred in the morning of 25.12.2014 and she has further stated that, in the evening when the male members on either side were away, once again a quarrel occurred in which the victim girl and Basamma assaulted each other. Perhaps, that is the reason why there is reference to the name Basamma in the statement given by the petitioner to T.R.Jalapathy, Sub Inspector of Police, Anchetty Police Station.

- On 02.01.2015, local vernacular newspapers carried reports of agitation by members of Communist party of India (Marxist) before the Taluk Office, Denkanikottai, in connection with the failure of the police to arrest the accused, little realising that the accused were arrested on 01.01.2015 and were remanded to judicial custody on the same day.
- After examination of the victim girl, her mother did not take her back home and therefore, the Revenue authorities had to necessarily lodge the victim girl in a Child Welfare home; may be because the victim girl was not toeing her parents' line of allegation.
- On 07.01.2015, the victim girl was brought by Mr.Sivanandan, Counsellor, Child Welfare Committee for medical examination to the Government Hospital, where she was examined by Dr.B.Poornima and Dr.Nandini. They noted that the hymen was intact and they gave opinion that the individual was not raped.
- The petitioner preferred the present W.P.No.1353 of 2015 before this Court on 19.01.2015, alleging inaction on the part of the police and further praying for transferring the investigation to the CBI. In the affidavit sworn to by the petitioner, he has not even averred that the accused were arrested by the police on 01.01.2015 for obvious reasons. When the matter came up for hearing, this Court issued various directions which are stated above and needs no repetition.
- All the accused were subjected to medical examination in order to find out if they are impotent and reports were received from Dr.Arivazhagan, Tutor, Chief, MD., Department of Forensic Medicine, Government Medical College, Dharmapuri that the accused are not impotent and they are capable of having sexual intercourse.
- On the orders of this Court, the victim girl was subjected to further medical examination by Dr.Girija, Assistant Surgeon, Government Dharmapuri Medical College, Dharmapuri on 01.02.2015.

- During examination, Dr.Girija found superficial abrasions

over the victim's left breast and hymen was found 'not intact'.

- To a specific query by the police as to when the hymen could have got torn, Dr.Girija has stated that, a week prior to her examination, the hymen could have got torn. This is where this Court is constrained to smell the rat. The victim girl was examined twice, namely by Dr.Nandini on 01.01.2015 and again by Dr.Poornima and Dr.Nandini on 07.01.2015 and at that time, there were no injuries found on her body and her hymen was intact.
- On 02.02.2015, the victim girl was subjected to radiological examination for determination of her age in the Department of Forensic Science, Government Dharmapuri Medical College. The age certificate discloses that the victim is above 16 years and below 18 years.
- The petitioner continued to allege that his daughter was subjected to rape and public opinion was whipped up to take departmental action against the doctors who examined the victim earlier and also the police personnel. This can be seen from a news report published in the 15.02.2015 issue of New Indian Express.

"Brinda Slams Cops, Docs for Doctoring Evidence in Diffabled Girl Rape Case

Two contradictory results arising from two medical examinations conducted by government doctors, within a few weeks of each other, of a minor girl who was allegedly raped, and the failure of the police to medically examine the victim immediately after the alleged rape, caused CPM leader Brinda Karat, in a strongly-worded letter to the Director General of Police (DGP) Ashok Kumar, to express her shock over the handling of the case on Saturday."

- The dress worn by the victim girl was subjected to chemical examination and the report dated 06.02.2015 given by Assistant Director and Assistant Chemical Examiner, Regional Forensic Science Laboratory, did not detect semen or blood in the in skirt, nighty, rose colour blouse and garments worn by the victim girl.

- On the orders of the Superintendent of Police, the investigation in this case was transferred on 18.02.2015 from the file of the Inspector of Police, All Women Police Station, Denkanikottai to Mrs.A.Thangavalli, Deputy Superintendent of Police, DCRB, Krishnagiri.
- On 26.02.2015, the petitioner was examined by Mr.P.K.Govindan, Tahsildar, Denkanikottai in the presence of Mr.Sekar and Mr.S.R.Jayaraman, Office bearers of CPM. In that statement, the petitioner has given an exaggerated version of the whole incident by saying that, when he asked his daughter as to who had caused injuries to her, she took him to the house of the four accused and pointed at them.
- In effect, the victim girl was examined by the following persons:
 - On 26.12.2014 by Dr.Ranganathan
 - On 01.01.2015 by the learned Judicial Magistrate, Denkanikottai with the help of Mrs.Thangam, Teacher from the Deaf and Dumb School.
 - On 01.02.2015 by Dr.Nandhini
 - On 02.01.2015 by Mrs.Sivaganthi, District Child Protection Officer.
 - On 02.01.2015 by Revenue Divisional Officer and Tahsildar Lakshmi with the aid of Mrs.Thangam and Mrs.Sulochana, who are the teachers from the Deaf and Dumb School

To none of these persons, the victim girl complained that she was subjected to rape, but whereas, the petitioner was insisting that his daughter was subjected to rape and has been crying from the roof top for justice.

19. This Court cannot blame the Press, NGOs or the members of the political parties or the lawyers who appeared for the petitioner, because, when a father goes and complains to them that his deaf and dumb daughter has been gang raped, anyone's heart will naturally bleed and therefore, they were all right in doing what they did in the given circumstances that they were in.

But neither police investigation nor judicial enquiry can in any way be influenced by extraneous factors, for, they are required to perform their statutory duties dispassionately. Sentiment is a dangerous will-o-the-wisp to take as a guide in search of truth. Referring to the role of media in Nirbhaya's case, Simon Denyer in his book *Rogue Elephant, Harnessing the power of India's unruly democracy*, wrote:

"This last decade has seen an explosion in the number of television news channels and a concomitant increase in their power to shape the national debate. Today, there are more than 450 news channels in the country, in languages from Hindi and English to Tamil, Telugu and Assamese, reaching into 143 million of the country's 233 million homes. Their reporting is sensational, often inaccurate, frequently polemical, but there is no doubt that they have played a major role in reinvigorating India's democracy and calling its politicians to account."

(emphasis supplied)

20. Such a cacophony is essential for the health of democracy in contrast to silence that prevails in the graveyard. Ours is a robust democracy, thanks to a vigilant press and a fast growing vibrant middle class based civil society. But public opinion cannot be the fulcrum of crime investigation. Roman Legal Principle (Law 12, Code of Poenis) says: "The idle clamour of the populace is not to be regarded, when they call for a guilty man to be acquitted, or an innocent one to be condemned." Perhaps this principle came into Roman law after Jesus Christ was crucified based on public clamouring.

21. In our criminal jurisprudence, both the accused and the victim have a fundamental right to have a fair investigation and trial, guaranteed by Article 21 of the Constitution of India. When repeatedly the Doctors were opining that the child was not subjected to rape, the police were soliciting one opinion or the other to placate the petitioner, which can be seen from an opinion that they have obtained on 11.03.2015 from Dr.Thunder, Chief M.D. Asst. Professor, Department of Forensic Medicine, Government Dharmapuri Medical College, Dharmapuri, which states as follows:

"I herewith submitting the answers to the queries raised by the DSP, DCRB, Krishnagiri District are as follows. On consideration of documents of the above references the ruptured hymen of victim girl concerned in above crime number may be possible due to Sexual Intercourse."

22. While the accused were in incarceration, the present writ petition has been filed without even impleading them as a party, by portraying them as modern Dhukshasanas. Only after this Court passed a stern order, the petitioner chose to file an application for impleading the accused as a party on 31.08.2015.

From the trial Court records, this Court was shocked to find a signed representation given by the petitioner to the police alleging that, Muthappa, his neighbour is illegally selling ganja and illicit liquor and that the other accused are his cohorts. He has further alleged that, on account of the complaint given by him, he has been excommunicated from the village. The police have conducted an enquiry and have obtained the signatures of elders in the village, who have denied these allegations. May be, in a small village, where everyone knows everything, it is possible that, after the arrest of the accused, the other villagers would have looked at the petitioner with trepidation and would have naturally avoided his company, fearing him, which he is branding as ex-communication.

23. False charges of rape is not unknown in this Country. In Modi's Text Book of Medical Jurisprudence and Toxicology, 1972 Edition, the following passage occurs:

"False charges.- False charges of rape are not uncommon in India. Occasionally parents may introduce chillies into the vagina of their female child to cause irritation and inflammation or may injure her genitals for the purpose of substantiating a false charge of rape brought against an individual with a view to taking revenge or extorting money from him, and may tutor their child to tell a circumstantial story of a rape. Modi saw a case in which the father thrust his thumb into the vagina of his daughter, six years old, in order to bring a false charge of rape against his neighbour who was his enemy, and lacerated the posterior part of the hymen, the posterior part of the vagina and the posterior commissure. At times parents inflict injuries on the private parts of their female child, and then kill her by strangulation or suffocation in order to bring a false accusation of rape and murder against their enemy. If necessary X-rays should be taken to ascertain age."

24. Things have not improved any better. In Prashanth Bharathi v. State (NCT) Delhi [2013(9) SCC 293], the Hon'ble

Supreme Court quashed the proceedings against the accused holding that the victim has brought out a false charge of rape.

25. Even the application for default bail under Section 167 (2) Cr.P.C. filed by the accused has been dismissed by the trial Court. On 16.03.2015, the police filed an alteration report in Cr.No.20 of 2014 under Sections 341, 323 IPC and Section 5(g) and 6 of POCSO Act, 2012 altering it to 376(D) r/w 511, 341 IPC, Section 11(1) (2) and 12 of POCSO Act. The Final Report for offences under Sections 376(D) r/w 511, 341, 323 IPC, 11(i) (ii) and 12 of POCSO Act was filed on 23.03.2015 before the Special Court.

26. Though the Hon'ble Supreme Court in *Sudipta Lenka v. State of Odisha and others* [(2014) 11 SCC 527] has held that when once the Final Report is filed, transfer of investigation should not be routinely ordered by the Court, yet in the peculiar facts and circumstances of the case, when the petitioner's conduct itself is suspect and prima facie it appears that he has trumped up false charges of rape against his neighbours who are still languishing in jail, and further the local Police investigation appears to be swayed by public opinion, re-investigation is imperative. This is not a fit case to transfer the investigation to the CBI, but it will serve the interest of justice if the Final Report is quashed and re-investigation is ordered to be done by the Crime Branch CID, which is an elite police force in the State of Tamil Nadu known for its professional competency. When once Final Report is quashed, the accused will be entitled to be released on statutory bail under Section 167(2). Moreover, the accused are in jail for the last nine months.

In the result:

(i) The Final Report in Spl.S.C.No.15 of 2015 in Cr.No.20 of 2015 on the file of the Special Judge, (Fast Track Court) Mahila Court, Krishnagiri is quashed.

(ii) The case in Cr.No.20 of 2015 on the file of the Deputy Superintendent of Police, Krishnagiri is transferred to the CBCID for re-investigation.

(iii) The Deputy Superintendent of Police, Krishnagiri is directed to handover the case diary to CBCID for the purpose of reinvestigation.

(iv) All other reliefs claimed by the petitioner are rejected.

(v) The CBCID investigation shall proceed without in anyway being influenced by whatever is observed above.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

gms

To

1.The Secretary to the Government
Home Department, State of Tamil Nadu
Secretariat, Chennai 600 009.

2.The Director General of Police
Mylapore, Chennai.

3.The District Collector
Krishnagiri District.

4.The Inspector of Police
AWPS, Denkanikotta
Krishnagiri District.

5.The Joint Director
Central Bureau of Investigation (CBI)
Rajaji Bhavan, Besant Nagar
Chennai 600 090.

6.The CBCID
Krishnagiri District. सत्यमेव जयते

7.The Public Prosecutor
High Court, Madras.

+1 cc to M/s.K.C.Karl Marx, Advocate, sr.52968 (13/10/2015)

W.P.No.1353 of 2015

AD (CO)
kk 5/10