

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 16.06.2026

CORAM

THE HONOURABLE MRS. JUSTICE L.VICTORIA GOWRI

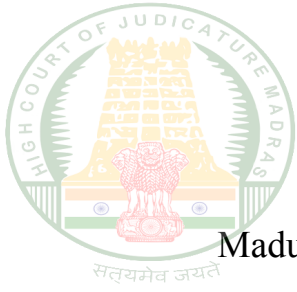
WP CRL.(MD). No.1392 of 2026

A.Rajeshkannan

... Petitioner

Vs

1. The Home Secretary,
Office of the Home Secretary,
Govt. of Tamil Nadu,
Secretariat, St. George Fort,
Chennai - 600 009.
2. The Director General of Police,
Office of the Director General of Police,
Head of Police Force,
Govt. of Tamil Nadu,
Dr.Radhakrishna Salai,
Mylapore,
Chennai- 600 004.
3. The Additional Director General
of Police,
Office of Additional Director
General of Police (A.D.G.P.),
Crime Branch Crime Investigation
Department (C.B.C.I.D).
No.220, Pantheon Road,
Egmore,
Chennai-8.
4. The Inspector General of Police,
Office of the Inspector General of Police,
South Zone,



Madurai, Madurai District.

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5. The Superintendent of Police,
Office of the Superintendent of Police,
Sivagangai District.
6. The Deputy Superintendent Of Police,
Office of the Deputy Superintendent of Police,
Manamadurai Sub Division,
Sivagangai District..
7. The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
8. The Inspector of Police,
Office of Inspector of Police (CBCID)
Kangirangal,
Tiruppathur Road,
Sivagangai District.
9. The Dean,
Government Medical College Hospital,
Sivagangai,
Sivagangai District.
10. The Dean,
Government Rajaji Hospital,
Goripalayam,
Madurai District.

... Respondents

Prayer:- To issue a Writ of Mandamus, Orders or direction in the nature of Writ to the Respondents 1,2,4,5,6 and 7 to register an independent criminal case for the offence of murder arising out of brutal custodial torture under the relevant provisions of the Bharatiya Nyaya Sanhita, 2023, along with the appropriate provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (as amended), based on the complaint dated 08.03.2026



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preferred by the father of the deceased. The petitioner has further prayed for transfer of the investigation to the third respondent herein, namely, the Crime Branch–Criminal Investigation Department (CBCID), and for a direction that the investigation be periodically monitored by this Court and completed within a period of 60 days in accordance with the provisions of the SC/ST (POA) Act.

For Petitioner : Mr.C.M.Arumugam

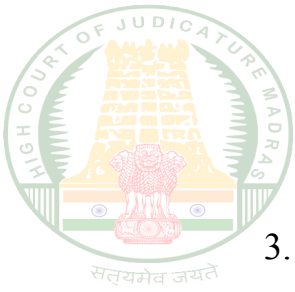
For R1, R9 and R10 : Mr.B.Saravanan,
Additional Advocate General,
Assisted by M/s.Priyanka Jothi,
Government Advocate(Civil Side)

For R2 to R8 : Mr.C.Susi Kumar,
Government Advocate (Crl. side)

ORDER

This matter is listed today under the caption “For Being Mentioned” pursuant to the earlier orders passed by this Court.

2. The writ petition itself came to be disposed of after recording the transfer of investigation to CBCID, alteration of the penal provisions to include Section 103 of the Bharatiya Nyaya Sanhita, 2023 read with Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and after issuing appropriate directions concerning the conduct of investigation.



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3. Subsequent to the disposal of the writ petition, the learned Additional Advocate General mentioned the matter before this Court stating that notwithstanding the completion of the post-mortem examination, preservation of all material evidence and substantial progress in the investigation, the family members of the deceased Akash Delison had declined to receive the mortal remains of the deceased for more than three months.

4. It was represented that the body continues to remain in the mortuary and that prolonged preservation has resulted in substantial decomposition. It was further submitted that the continued retention of the body is creating serious practical and public health concerns and is also causing considerable hardship to the medical authorities entrusted with its preservation.

5. Taking note of the said submissions, this Court, by order dated 15.06.2026, directed the petitioner and the family members of the deceased to receive the mortal remains of their son on or before 5.00 p.m. on the same day and posted the matter today for reporting compliance.

6. Today, when the matter is taken up, the learned counsel appearing for the petitioner fairly submits that the family has not received the body till date.

7. The learned Additional Advocate General therefore seeks permission of this Court to enable the District Collector, Madurai District, the Commissioner, Madurai City Corporation and other competent authorities to take necessary steps



for the dignified disposal of the mortal remains in accordance with law.

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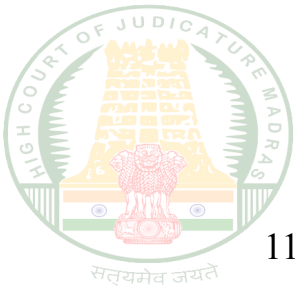
Submissions of the Parties:

8. The learned counsel appearing for the petitioner would submit that the family has consistently entertained serious apprehensions regarding the circumstances surrounding the custodial death of the deceased. According to the petitioner, there was lack of transparency immediately after the occurrence and attempts were allegedly made to persuade the family to settle the matter.

9. The learned counsel further relied upon various international instruments including the United Nations Code of Conduct for Law Enforcement Officials, the United Nations Convention against Torture, the Minnesota Protocol on the Investigation of Potentially Unlawful Death and the decision of this Court in ***Kasturi v. State***¹ to contend that every custodial death must be investigated independently, transparently and effectively.

10. The learned counsel would further submit that since the deceased belongs to a Scheduled Caste community, the provisions of Section 3(2)(v) and Section 3(2)(vii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are attracted and that the family has withheld receiving the body in order to secure complete justice.

¹ CrI.O.P.No.20008 of 2013



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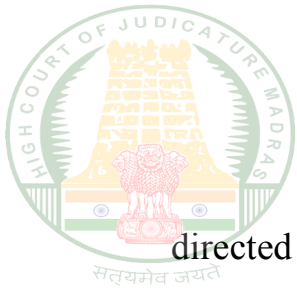
11. According to the petitioner, unless stronger action is taken against all officials allegedly involved in the occurrence, the family is unwilling to receive the mortal remains.

12. Per contra, the learned Additional Advocate General submitted that the grievances which originally necessitated judicial intervention have already been substantially addressed. Investigation stands transferred to CBCID. A senior officer has been appointed as Investigating Officer. CCTV footage, hospital records, prison records and police station records have been secured. The offence has already been altered to include Section 103 BNS and Section 3(2)(v) of the SC/ST (POA) Act. Therefore, the continued refusal to receive the body cannot be justified on the ground that investigation has not progressed.

13. The learned Additional Advocate General further submitted that the body has remained unclaimed for more than ninety days and has undergone substantial decomposition. Continued preservation serves no investigative purpose and is inconsistent with the dignity that must be accorded to the deceased.

14. This Court has carefully considered the rival submissions.

15. There can be no dispute that custodial death allegations require the highest degree of judicial sensitivity and institutional accountability. It was for precisely that reason that this Court intervened at the earliest point of time,



directed appropriate alteration of offences, ensured independent investigation by CBCID and monitored the matter till the immediate concerns stood substantially addressed.

16. Equally important, however, is the constitutional principle that dignity does not cease with death. The right to life guaranteed under Article 21 of the Constitution of India has repeatedly been interpreted to include the right to a decent and dignified treatment of mortal remains.

17. The right of a deceased person to receive a decent burial or cremation is not merely a matter of religious observance. It is an extension of human dignity itself. The constitutional values that protect an individual during life continue to operate in respect of the mortal remains after death.

18. The Hon'ble Supreme Court in *Ashray Adhikar Abhiyan v. Union of India*² recognised the obligation of the State to ensure dignified disposal of unclaimed bodies. Similar principles have subsequently been recognised by various High Courts while dealing with situations where bodies are retained for prolonged periods either due to absence of relatives or refusal on the part of relatives to perform the last rites.

19. This Court also finds considerable guidance from the judgment of the Hon'ble High Court of Jharkhand in *Maithon Power Limited v. State of*

² AIR 2002 SC 554



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*Jharkhand and Others*³, wherein it was held that the right to dignity includes the right of a deceased person to receive a decent burial or cremation and that the State is under an obligation to ensure that mortal remains are not indefinitely retained or utilised as instruments of protest. Though the said decision is not binding upon this Court, the principles enunciated therein are founded upon Article 21 and deserve respectful consideration.

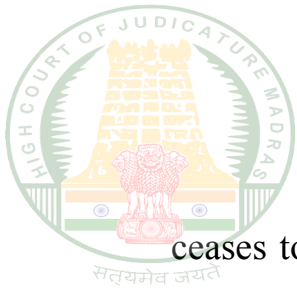
20. In the present case, the family members are known and identifiable. They have been repeatedly informed. Adequate opportunity has been granted. A specific direction was issued by this Court on 15.06.2026 requiring them to receive the body before 5.00 p.m. on the same day. Admittedly, the said direction has not been complied with.

21. The continued refusal of the family to receive the body cannot result in indefinite preservation of mortal remains. Such a course would ultimately defeat the very dignity sought to be protected.

22. Section 2(f) of the Tamil Nadu Anatomy Act, 1951 defines an “unclaimed body” as the body of a person who dies in a hospital, prison or public place and is not claimed by any near relative within the prescribed period.

23. The expression “claimed” occurring in the statutory definition necessarily contemplates actual acceptance and receipt of the body by the near relatives. Merely because relatives are identifiable does not mean that the body

³ W.P.(C)No.6362 of 2023



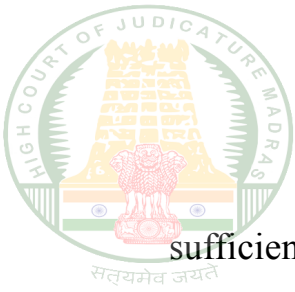
ceases to be unclaimed when they expressly refuse to receive it despite repeated opportunities.

24. In the facts of the present case, the post-mortem examination has long since been completed. All necessary medico-legal formalities have been concluded. Samples have been preserved. Investigation is proceeding independently through CBCID. No useful purpose would therefore be served by continuing to preserve the body indefinitely.

25. A conjoint reading of Section 2(f) of the Tamil Nadu Anatomy Act, 1951 and Rule 8 of the Tamil Nadu Anatomy Rules, 1951 makes it clear that where a body remains unclaimed after completion of legal formalities, the State is empowered to arrange burial or cremation at Government expense.

26. This Court is also conscious of the legislative developments reflected in enactments such as the Rajasthan Honour of Dead Body Act, 2023 and the Haryana Honourable Disposal of Dead Body Act, 2024, which recognise the obligation of the State to ensure dignified disposal where family members refuse to perform the last rites. Though such enactments do not directly apply within the State of Tamil Nadu, they reinforce the constitutional principle that a deceased person cannot be denied dignified final rites merely because relatives decline to act.

27. The refusal of the petitioner and his family to receive the body, despite



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sufficient opportunity and despite a specific judicial direction, leaves this Court with no alternative except to authorise the State authorities to proceed in accordance with law.

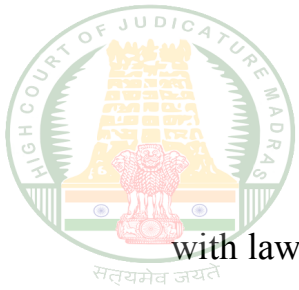
28. Accordingly, the District Collector, Madurai District, the Commissioner, Madurai City Municipal Corporation, the Dean, Government Rajaji Hospital, Madurai, and all other competent authorities are permitted and directed to take immediate steps for the dignified disposal of the mortal remains of the deceased Akash Delison.

29. The disposal shall be undertaken strictly in accordance with the religious faith, customs and practices professed by the deceased and his family, to the extent ascertainable from available records.

30. Before undertaking the final rites, the District Administration shall ensure that adequate photographic and videographic documentation of the body is preserved as part of the official record.

31. The expenditure incurred for such disposal shall initially be borne by the State in accordance with Rule 8 of the Tamil Nadu Anatomy Rules, 1951 and other applicable governmental instructions.

32. The dignified performance of the last rites by the State authorities shall not in any manner affect, dilute or prejudice the ongoing investigation into the custodial death, which shall continue independently and strictly in accordance



with law.

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33. The CBCID shall proceed with the investigation uninfluenced by the disposal of the body and shall complete the investigation and file its final report before the jurisdictional Court as expeditiously as possible.

34. The Registry is directed to communicate a copy of this order forthwith to the District Collector, Madurai District; the Commissioner, Madurai City Municipal Corporation; the Director General of Police, Tamil Nadu; the Additional Director General of Police, CBCID; and the Dean, Government Rajaji Hospital, Madurai, for immediate compliance.

35. With the above directions, the proceedings arising out of the mention are closed.

16-06-2026

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Note: Issue order copy on 16.06.2026.

To

1. The Home Secretary,
Office of the Home Secretary,
Govt. of Tamil Nadu,
Secretariat, St. George Fort,
Chennai - 600 009.
2. The Director General of Police,
Office of the Director General of Police,
Head of Police Force,
Govt. of Tamil Nadu,



Dr.Radhakrishna Salai,
Mylapore,
Chennai- 600 004.

3. The Additional Director General
of Police,
Office of Additional Director
General of Police (A.D.G.P.),
Crime Branch Crime Investigation
Department (C.B.C.I.D).
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4. The Inspector General of Police,
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5. The Superintendent of Police,
Office of the Superintendent of Police,
Sivagangai District.
6. The Deputy Superintendent Of Police,
Office of the Deputy Superintendent of Police,
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7. The Inspector of Police,
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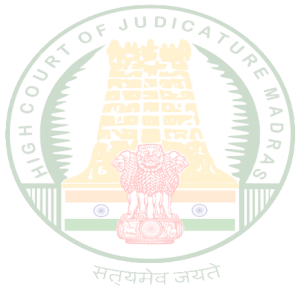
10. The Dean,
Government Rajaji Hospital,
Goripalayam,
Madurai District.

11. The District Collector,
Madurai District.

12. The Commissioner,
Madurai City Municipal Corporation;

13. The Director General of Police,
Tamil Nadu.

14. The Additional Director General of Police,
CBCID.



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L.VICTORIA GOWRI,J

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**ORDER
IN
WP CRL.(MD) No.1392 of 2026**

Date : 16/06/2026