

*Suo Motu* W.P.No.7492 of 2020

**M.SATHYANARAYANAN, J.**  
**and**  
**M.NIRMAL KUMAR, J.**

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The visual media channel namely “Puthiya Thalaimurai” has telecasted a news item at the evening hours on 19.04.2020 (yesterday) stating among the things that a Medical Doctor, who had already health problems, suffered heart attack due to complications developed on account of COVID-19 infection. The body of the Doctor was taken to a Christian Cemetary at Kilpauk, Chennai. The residents of the area assembled at large numbers and opposed the burial of the said body.

2.As a consequence, the body was taken to Velangadu and buried. In the process, the ambulance in which the body was taken, also attacked so also the persons accompanying the body. There was a law and public order problem on account of the said act and as a consequence, some public servants were also injured.

3.This Court with the permission of the Hon'ble Chief Justice, had taken up this matter by way of *suo motu* Writ Petition as a Public Interest Litigation.

4.The Union Ministry for Health and Family Welfare, Science and Technology of Government of India had issued summary of guidelines to deal with COVID-19. The Table of Contents are 92 in numbers running to 30 pages. Source 01, Ministry of Health and Family Welfare deals with Social Stigma Associated with COVID-19. It is relevant to extract the same:-

*“Social Stigma Associated with COVID-19*  
*Public health emergencies during outbreak of communicable diseases may cause fear and anxiety leading to prejudices against people and communities, social isolation and stigma. Such behavior may culminate into increased hostility, chaos and unnecessary social disruptions. Cases have been reported of people affected with COVID-19 as well as healthcare workers, sanitary workers and police, who are in the frontline for management of the outbreak, facing discrimination on account of heightened fear and misinformation about infection. There is an urgent need to counter such prejudices and to rise as a community that is empowered with health literacy and responds appropriately in the face of this adversity. Accordingly, all responsible citizens are advised to understand and follow the guidelines.”*

5.Source 91: No.P-11/14/Misc./1/2019-Rev. dated 16.03.2020 of ESIC deals with Ministry of Health and Family Welfare guidelines on Dead Body Management. It is relevant to extract the same:-

*“Source 91: No.P-11/14/Misc./1/2019-Rev. Dated 16.03.2020 of ESIC*

*MoHFW-Guidelines on Dead Body Management Guidelines are provided for Standard Precautions to be followed by health care workers while handling dead bodies of COVID are to follow standard infection prevention control practices. The personnel handling the body may follow standard precautions (surgical mask, gloves). For transportation the body is secured in a body bag, exterior of which is decontaminated. Environmental cleaning and disinfection of surfaces is to be done with 1% Sodium Hypochlorite solution. Autopsy should be avoided, and embalming of body should not be allowed.*

*At the crematorium/ Burial Ground, the Crematorium/ burial Ground staff should be sensitized that COVID 19 does not pose additional risk.”*

6.(1981) 1 *Supreme Court Cases* 608 dealt with the question in regard to right of a detenu under the Conservation of Foreign Exchange and Prevention of Smuggling Act (COFEPOSA) to have interview with a lawyer

and the members of his family. The Apex Court in the said decision while dealing with the scope of Article 21 in an exhaustive manner in paragraph 7 observed that *“Now obviously, the right to life enshrined in Article 21 cannot be restricted to mere animal existence. It means something much more than just physical survival.”* It is further observed that in the case of Kharak Singh Versus State of U.P reported in (1964) 1 SCR page 232, *“.....The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed. The provision equally prohibits the mutilation of the body or amputation of an arm or leg or the putting out of an eye or the destruction of any other organ of the body through which the soul communicates with the outer world ..... Moreover it is every kind of deprivation that is hit by Article 21, whether such deprivation be permanent or temporary.....”*

7. In the considered opinion of the Court the scope and ambit of Article 21 includes, right to have a decent burial. It *prima facie* appears that as a consequence of above said alleged acts, a person who practiced a noble profession as a doctor and breathed his last, has been deprived of his right, to have a burial, in a cemetery earmarked for that purpose and that apart, on account of law and order and public order problem created, the officials who

have performed their duties, appeared have sustained grievous injuries.

8.Chapter X of Cr.P.C, 1973, deals with Maintenance of Public Order and Tranquility and sub clause (A) deals with Unlawful assemblies.

9.Section 129 of Cr.P.C speaks about Dispersal of Assembly by use of civil force, Section 130 of Cr.P.C speaks about Use of armed forces to disperse assembly, Section 131 of Cr.P.C speaks about Power of certain armed force officers to disperse assembly, Section 132 of Cr.P.C speaks about the Protection against prosecution for acts done under preceding sections.

10.Chapter XV of Indian Penal Code (IPC) deals with offences relating to religion, Section 297 speaks about Trespassing on burial places and it is relevant to extract the same “

*“297.Trespassing on burial places, etc.—Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby,*

*commits any trespass in any place of worship or on any place of sepulchre, or any place set apart from the performance*

*of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies,*

*shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.”*

11.This Court can also take Judicial notice of the fact that the informations relating to guidelines to be followed in respect of COVID-19 cases are available in public domain at the instance of the Central Government and State Government as well as through social media and the people are expected to be aware of the said guidelines issued from time to time.

12.Citizens are not expected to take law and order into their hands and if it is so, would definitely lead to anarchy. There is likelihood of similar kind of incidents to occur in future also.

13.Therefore this Court in public interest, issues notices to (i)The State of Tamil Nadu represented by Chief Secretary to Government, Secretariat, Chennai-600 009 (ii)The Principal Secretary, Home Department, Secretariat,

Chennai-600 009 (iii) The Principal Secretary, Health and Family Welfare Department, Secretariat, Chennai-600 009 (iv)The Commissioner, Greater Chennai Corporation, Chennai – 600 003. (v)The Director General of Police, Santhome, Mylapore, Chennai-600 004 (vi)The Commissioner of Police, Greater Chennai, Vepery, Chennai-600 007 returnable on 28.04.2020.

List this matter on 28.04.2020.

[M.S.N., J] [M.N.K., J]  
20.04.2020

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Internet : Yes

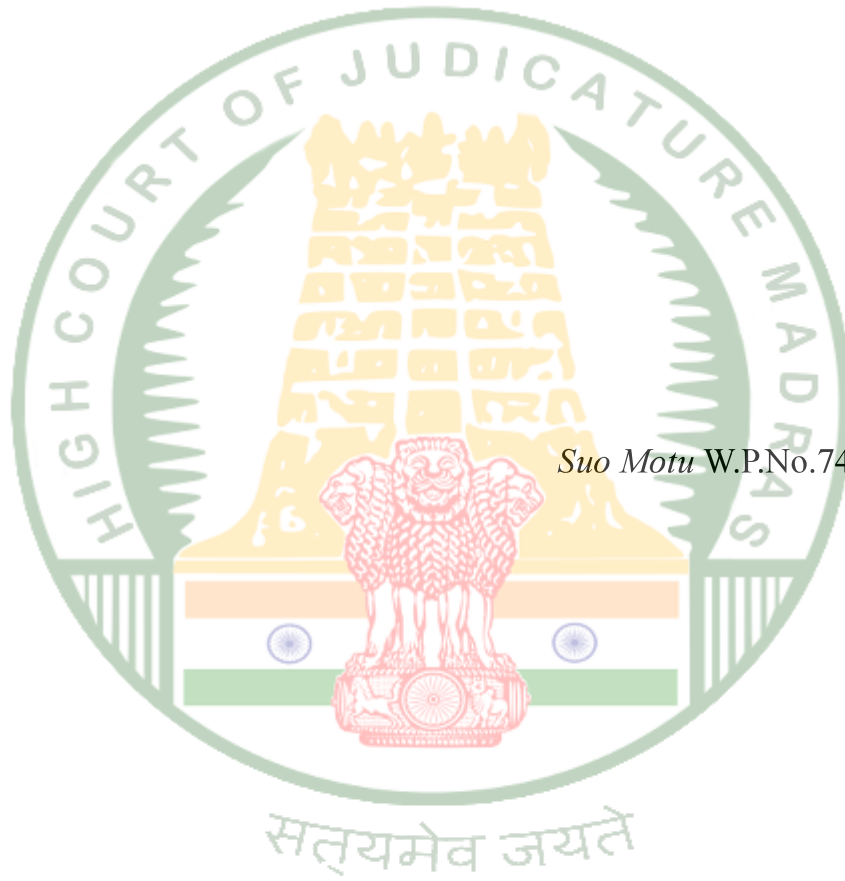


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