



W.P.No.33577 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 02.03.2023

Pronounced on: 26.06.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

WP.No.33577 of 2005

D.Selvakumari

... Petitioner

Vs

- 1.State of Tamil Nadu
rep. by its Secretary,
Public Department,
Fort St. George,
Chennai 600 009.
- 2.The District Collector,
Thanjavur District,
Thanjavur.
- 3.S.Ramalingam,
The Superintendent of Police,
Thanjavur District,
Thanjavur.
- 4.T.P.Sakthivel,
The Inspector of Police,
Taluk Police Station,
Thanjavur.
- 5.Inspector of Police,



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Kallaperambur Police Station,
Thanjavur District.

6.The Superintendent,
Central Prison,
Tiruchirappalli.

7.The Superintendent,
Sub Jail,
Thanjavur.

... Respondents

(R6 & R7 impleaded vide order dated 26.10.2022
made in WMP.26269 of 2022 in WP.33577 of 2005)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to jointly or severally pay compensation of Rs.10 lakhs to the family of the petitioner for her husband's Dhanapal @ Thangappan's death in custody and to direct the Respondents 1 and 2 to initiate appropriate action against the police officials responsible for the custodial death.

For Petitioner : Ms.B.S.Ajeetha

For Respondents : Mr.P.Kumaresan, Additional Advocate General
Assisted by Mr.Alagu Goutham
Government Advocate (for R1, R2, R5 to R7)

No Appearance (for R3 and R4)

ORDER

The petitioner is aggrieved by the demise of her husband one Dhanabal @ Thangappan and pleads that his demise was caused in custody and at the instance



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of respondent no. 5, the Inspector of Police, Thanjavur Taluk Police Station [PS]/ R5 at the relevant point in time. R6 and R7, the Superintendent of Central Prison at Trichy (in short, R6) and the Superintendent of Sub-Jail, Thanjavur (in short, R7) respectively have been impleaded on 26.10.2022.

2. Her versions of the events culminating in the demise of her husband are as follows:-

- (i) On 26.07.2002, around 12 a.m. midnight, four Constables from the PS, attired as civilians, barged into her house, caught hold of her husband and dragged him into a waiting van.
- (ii) The next day the petitioner, accompanied by relatives went at 7.30 a.m. to the police station when she witnessed her husband being tortured by constables, who were beating him with a lathi.
- (iii) She also alleges that the policemen demanded bribes for buying meals for her husband. She obliged.
- (iv) Her relatives also saw her husband being tortured.
- (v) She was informed that her husband was being enquired for theft of electricity wire on a complaint by the officials of the Electricity Board.
- (vi) On 28.07.2002, she visited the police station once again and was not permitted to see her husband.



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(vii) On 29.07.2002, Selvaraj, her husband's co-brother, Kathiravan and one Tamilarasan were brought to the station and the Sub-Inspector (Crime), one Govindaraj, is stated to have enquired with Kathiravan if he had stolen electrical wire, which Kathiravan denied.

(viii) Despite being beaten, Kathiravan, maintained that he had not stolen any item.

(ix) Selvaraj was asked to sit outside.

(x) The petitioner states that around 10 pm her husband was once again beaten with lathi by police constables, Thavamani, Rajarajan, and Rajendran, on instructions of T.P.Sekar/R4.

(xi) The petitioner's husband was tortured in order to elicit a confession for stealing electrical wires.

(xii) The petitioner details the gruesome methods of torture in detail at paragraph 7 of the writ affidavit.

(xiii) All three of them were thereafter locked up and the time then was around 2 a.m.

(xiv) The petitioner claims that her husband was taken to a local Doctor, and then produced before the Judicial Magistrate, II, Thanjavur and remanded to



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judicial custody on 05.08.2002. She was present at that time and attests to her husband's poor physical condition.

(xv) He was remanded to Thanjavur, Sub Jail [Sub-Jail] on 05.08.2002 and taken to the Trichy Prison where he died on 08.08.2022.

3. Though the petitioner has sent representations to the Chief Minister, District Collector and the State and Human Right Commissions seeking intervention and relief, till the date of final hearing of this matter, she had not received any response from them. Hence this writ petition, seeking mandamus directing the respondents to jointly or severally to pay compensation of Rs.10 lakhs to the family of Dhanapal for his death in police custody and also to initiate appropriate action against the police officials for his custodial death.

4. The respondents bring to note that on 11.03.2004, the District Collector/R2 on receipt of the complaint had forwarded the same to the enquiry officer, for enquiry and further action. Based upon the report of RDO dated 29.11.2002 as well as other documents, the State, has vide order dated 16.01.2006, dropped all further action. No response appears to have been received from the Human Rights Commissions and in any event nothing has been placed before this Court.

5. A counter has been filed by R2, setting out their version of events. According to R2, Dhanapal along with Kathiravan, Selvaraj and Tamilarasan, was ar-



rested on 01.08.2002 at 1600 hrs in Crime Nos. 8,19, 29 for crimes under Section 420 and Crime Nos. 470 58 and 74 of 2002 under Section 379 of IPC. Their confessions were recorded and the stolen goods were seized from Kathiravan and one Seikh Dawood. All of them were arrested and brought to the Thanjavur police station on 2400 hrs on 01/02.08.2002.

6. They were remanded to judicial custody on 02.08.2002, sent to Sub-Jail, Thanjavur and then transferred to Central Prison, Trichy. They deny that Dhanapal was ill-treated. According to them, Dhanapal was admitted in the Government Hospital, Trichy for medical treatment after five days of the remand from Thanjavur Police station and expired on 07.08.2002. They place reliance upon the post-mortem report, which according to them, is in their favour, as it does not indicate any violence of injury as being the cause of death.

7. The RDO had held an inquest under Section 176 of the CrPC since the demise of Dhanapal was whilst in custody. The RDO has concluded, based on the autopsy, that the death was on account of natural causes. They point out that reference to S.Ramalingam as Superintendent of Police is incorrect as he was an Inspector of Police at that time. They aver that records of the PS, Sub-Jail and the Central Prison, Trichy had been properly maintained and reflect the sequence of events as depicted by them.



8. They also point out that at the time of production of Dhanapal and others before the Judicial Magistrate for remand, no allegation was made about torture and thus they deny all such allegations regarding to illegal custody and torture, as being untrue. They draw support from the fact that the prison remand register, Trichy contains a noting that Dhanapal had suffered from epilepsy and it is their suggestion that his demise must be attributed to that factor.

9. An affidavit has been filed by K.Jayakumar, the brother of the petitioner attesting to the events of illegal detention and torture. At paragraphs 2 to 4 of the affidavit, he states thus:-

“2. I state that I came to know about the arrest of my brother in law, Dhanapal only on 28.07.2002 through my grandmother, Nagammal when I came to visit her. I went to the Thanjavur Taluk Police Station on 29.07.2002 to meet the deceased Dhanapal. The deceased was sitting with shorts on the floor with no shirt inside the cell holding the door and cried on seeing me. I went again the next day to meet him at the Thanjavur Taluk Police Station and he showed his injuries on his body and his feet where the police had brutally beaten him with lathi. He told me the gory details of having been beaten by the police continuously. He put his hands together and begged me to somehow take him from there.

3. I state that the deceased Dhanapal cried and narrated the brutalities of the police sobbing with pain. He said that he was made to lie down stomach down on a bench and a lathi was placed at the back of his knees which was held tightly by 2 constables and that constables took turns to beat his back region. He cried that he could not bear the



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pain and told that he would die. Also he said there was various other brutal ways in which he was tortured.

4. I state that I went to meet the deceased at the Sub Jail Thanjavur, after he was remanded to the Judicial Magistrate, Thanjavur where the deceased showed all his injuries again and cried. His whole body was swollen in various places especially his stomach. He said he would surely die and begged me to help him to get treatment. I requested the Superintendent of Jail, Thanjavur to transfer him to the Trichy Prison as I thought that he would get better medical care at Trichy. The Superintendent demand Rs.10,000/- for this. I managed to give him Rs.6,000/- and only then was he transferred to the Trichy Prison.”

This affidavit stands testimony to the events of 27.07.2002. No rejoinder has been filed raised by the respondents to the contents of this affidavit and the contents are thus wholly uncontroverted.

10. In order to verify and ascertain the proper sequence of events, this Court had directed the respondents to produce the records of the District Collector, Sub-Jail and Central Jail and all relevant communications between the respondents. A compilation has been filed dated 27.01.2023, wherein the chain of events from 01/02.08.2002 till his demise on 08.08.2022 has been set out. Some extracts have also been produced from the registers maintained.

11. At the time of admission, the details of the remand prisoner are to be entered in the remand prisoners register. There is an entry under Sl.No.1878 dated 02.08.2002, under the petitioner's husband name, reading as follows:-



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“Two warrant 1878, தனபால் @ தங்கப்பன், த.பெ. குலியன் 2/08/02, நேரடி, ஆண் - ம/ஆண், இந்து - பள்ளர், தொழில் - விவசாயம், கூயது - 32/02, படிப்பு - 5ம் வகுப்பு, உறவு - மனைவி செல்வகுமாரி, முகவரி - பிள்ளையார் கோயில் தெரு ஆழிவாய்க்கால், ஓரத்தநாடு தாலுகா, தஞ்சாவூர் மாவட்டம், மச்சம் தழும்பு 1, வலது கண் அருகில் மச்சம் 2, இடது கண் அருகில் மச்சம் 3. நடு வயிற்றில் தழும்பு 1st case தாலுகா P.S. கு.எண் 8/02, 19/02, 29/02, 420/02, 470/02 u/s 379 IPC JM II Thanjavur, Hg.Dt. 16.08.2002; 2nd case கள்ளப்பெரம்பூர் P.S கு.எண் 58/02, 74/02, u/s 379 IPC JM II Thanjavur, Hg.Dt. 16.08.2002; 05.08.2022 – Transferred to CP, Trichy. Sd/- Supd. ”

12. There are some discrepancies in the details contained in the documents

when compared with extract of the remand prisoners register, below:-

	DIS MRP 5	08/0	Released on Bail 1. MRP 1836 ஆறுமுகம் S/o அய்யாக்கண்ணா 2.MRP 1788 முக்கன் என்கிற வள்ளியப்பன் S/o கலியன் 3. MRP 1689 திருப்பதி S/o குருசாமி 4.MRP 1690 பழனிவேல் S/o ராமன் 5. MRP 1646 சுரேஷ் S/o சின்னப்பா	(5) MRP
	DIS MRP 1	15.20	Transferred to CP Trichy MRP 1701 காமராஜ் கரியன்	Escort HC 738, Gr.I/1369 1.Sd/-2.8.02 2.Sd/- 2.8.02
Ad MRP 4		15.30	Ad from JM II TNJ PS KP 1.MRP 1876 தமிழரசன் S/o தமிழ், சுப்பையா 2.MRP 1877 தனபால் @ தங்கப்பன் S/o கலியன் 3. MRP 1878 செல்வராஜ் S/o கருப்பையன் 4. MRP 1879 கதிரவன் S/o கலியழீர்த்தி	4/2 sd/-



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13. Though the numbers assigned to the petitioner, Tamilarasan and Kamaraj in the Remand Prisoner's Register are 1878, 1879 and 1880, the admission register refers to Dhanabal @ Thangappan under MRP 1877, Selvaraj under MRP 1878 and Kathiravan under MRP 1879.

14. The extract of the lock-up/attendance register for the dates 03/04.08.2022 have been placed at pages 10 - 17 of the compilation. The transfer of Dhanabal to the Central Prison was on 05.08.2002 and the Central Prison Remand Register has been placed at page 19.

15. It is the version of the respondent that on 07.08.2002, Dhanabal was taken to the Government Hospital, Trichy from the Central Prison and declared as 'brought dead'. There is a referral sheet dated 07.08.2002 reading as follows:-

*"Patient developed generalized seizure and P/E patient having greptations forming and having difficulty in breathing
BP-80/?
Pulse – Feeble 100/mt very low volume
CNS Patient is in tonic clonic seizure
Reflexes not elicitate
pupil small in size both eyes"*

16. He was referred to the Trichy Medical College for further management as per accident register dated 07.08.2002 by the Government Hospital, Trichy.

17. The Criminal Procedure Code has specifically taken note of instances of torture and death by the police and, under Section 151 and Police standing order in G.O.(Ms).No.2854 (Home



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Department) dated 12.10.1955, set out the procedure to deal with the same. The enquiry is to be conducted by the Judicial Magistrate and not by the RDO.

18. The Counter filed by R1 is bereft of any details and it is the report of RDO dated 29.11.2022 that is really revealing as to the defence taken. The report of the RDO captures the entirety of the submission of the parties i.e., the petitioner and family members of Dhanapal, the details of evidence collected and the statements of the witnesses. A rough translation of the Report is extracted below:

Letter dated 29.11.2002 Translation

Tiruchirapalli Central Jail inmate No.6853 Dhanapal @ Thangappan S/o Kaliyan died at Tiruchirapalli Government Hospital on 07.08.2002 at 4.45 p.m. and in order to conduct the post-mortem, Revenue Divisional Officer (incharge), Tiruchirapalli directed the Inspector of Police, K.K.Nagar, Tiruchirapalli on 08.08.2002 at 9.40 a.m. to inform the relatives of the deceased for enquiry and due to the objections raised by the deceased's relatives, they did not appear. A report in regard to this has also been sent to the District Collector on that day itself. I submit the following report on the basis of my enquiry at Trichy Government Hospital Mortuary on 09.08.2002.

Jail inmate No.6853 Dhanapal @ Thangappan S/o Kaliyan residing at Pillayar Kovil street, Orathanaadu Azhavaikal Post, Thanjavur, who was accused in Crime Nos.58/2002, 74/2002, by the Kallaperambur Police Station and in Crime Nos.8/2002, 19/2002, 29/2002, 420/2002 and 470/2002 Tanjore Taluk Police Station for the offence under Section 379 of IPC was remanded to custody for 15 days i.e., till 16.08.2002 in Tiruchirappalli Central Jail by the learned Judicial Magistrate No.2, Thanjavur. The following persons were enquired in connection with the death of this inmate.

1. Wives of the inmate/deceased : 1) Kannammal 30/2002
2) Selvakumari 25/2002
 2. Panchayatars :
 3. Other inmates : 1) Ismail @ Baba No.6442
2) Palanisamy No 3147
 4. Central Jail Officer : Mr.R. Thuraisamy
 5. Central Jail Doctor : Mr.Chokalingam
 6. Thanjavur Taluk Inspector of Police : Mr.Ramalingam
 7. Tiruchirapalli Government Hospital Doctor: Dr.Kalpana Devi
- Kannammal, first wife of Dhanapal @ Thangappan, aged 30/2002 gave the following statement:-*



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She gave a petition for visiting her husband. During her last visit to see her husband on Wednesday, at about 4.00 p.m., she went along with her mother-in-law and also took snacks, tooth paste, clothing for him. At that time, her husband was not shown to her. Instead, she was asked to give the things that she had brought for her husband to another inmate, who in turn informed her that her husband was not even in a position to walk. After she reached her home, she received a telegram from Central Jail stating that her husband is very serious, and later she also received another telegram informing her that her husband had passed away. On 09.08.2002, she came along with the panchayatars for the interrogation with regard to the death of her husband. At that time, she could witness injuries on his neck and private part and bleeding in his nose and mouth. She also witnessed scar in his mouth and stomach and the death of her husband was due to the assault by the police.

Selvakumari, second wife of Dhanapal @ Thangappan, aged 25/2002 gave the following statement.

15 days before, when she was at her home along with her husband and her sister's children, Thanjavur Taluk Police came to their home and forcibly took her husband to the police station in a police van. She went to the Thanjavur Police station along with her relative to see her husband. As it was a Saturday, she alone was permitted to go inside and to visit her husband. At that time, the police men were assaulting her husband. She begged to them, not to beat her husband but they kicked her. She witnessed the police men beating her husband and she was not permitted to speak with her husband. She asked for permission to the police men daily to visit her husband but they denied. Police men asked her to give them Rs.200/- per day in order to provide food for her husband. Her husband was kept under custody for 8 days and thereafter, he was produced before the court. After that, she is not aware of what had happened.

Statement given by the Panchayatars, in regard to the death of the inmate/deceased, are as follows:-

Panchayatars know Dhanapal @ Thangappan and his family members very well. On 27.07.2002 (Saturday), Dhanapal S/o Kaliyan's wife Selvakumari came to him stating that her husband was forcibly taken by the Thanjavur Taluk Police to the police station. We went to the police station to see him. Selvakumari sought permission from the Sub-Inspector of police (S.I), Thanjavur Taluk Police Station to see her husband, but the S.I kicked her and didn't permit her to see him. When the panchayatar asked her, why the S.I had kicked her, she explained to him that the policemen were beating her husband and when she tried to prevent them, they had kicked her. Panchayatar asked the Govindaraj, S.I.(Crime), on what basis Dhanapal was arrested and he replied to him that there are cases pending against him. S.I. refused to give further details with regard to the arrest of the Dhanapal. The panchayatars were also not permitted to meet Dhanapal. As the next day was a Sunday, no one went to the police station to see Dhanapal. On Monday morning, Dhanapal's brother came to the panchayatars and informed him that, the police men are going to produce Dhanapal before the Court. Panchayatars went to the police station to enquire about the same. The police men had informed him that the investigation is still going on and they will inform him, when they are going to produce Dhanapal before the court. After that, there was no information with regard to the same. On 02.08.2002 Dhanapal was produced before the Court and he was remanded in Sub-jail. On 04.08.2002, they made a petition before the Sub Jaul, Thanjavur,



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to see Dhanapal and also saw him. At that time, Dhanapal had confessed that the police men had obtained a false statement from him and he has not involved in any those cases alleged to have been committed by him. He informed him that he could not bear the assault caused by the police men anymore and he may not be alive. On 05.08.2002 (Monday), Dhanapal was sent to the Central Jail, Tiruchirappalli. On 06.08.2002, the panchayatars went to the Sub-Jail, Thanjavur to enquire, why they had sent Dhanapal alone to the Central Jail, Tiruchirappalli, while the other 4 accused are still remaining in Sub-Jail, Thanjavur. They had informed him that, as the health of Dhanapal was becoming worse, they had to sent him to Central Jail, Tiruchirappalli, where medical facilities are available. On 07.08.2002, at about 7.00 p.m., Kaliyan f/o Dhanapal came to the panchayatars and informed him that he had received a telegram from Central Jail, Tiruchirappalli stating that Dhanapal is very serious. As it was night, they decided to look after the issue by the next day morning. But on the same day, at about 10.00 p.m., the police men had informed them that Dhanapal has passed away. When they had further enquired about what had happened, they didn't give any further information. On 09.08.2002, panchayatar went for the interrogation conducted by RDO along with two wives of Dhanapal. At that time, he witnessed grievous injuries on his neck and bleeding in nose and mouth of the Dhanapal, which were caused due to the assault caused by the Thanjavur Taluk Police (Crime) and requested to take action against them.

Statement given by other inmates in Central Jail, Tiruchirappalli 1. Ismail @ Baba S/o Sayin Mohammed No 6442. 2. Palanisamy S/o Chinnasamy Devar No 3147, with regard to the death of inmate/deceased.

They are well aware that inmate No.6853 Dhanapal @ Thangappan was brought to the Central Jail, Tiruchirappalli on 05.08.2002 and as he was unwell, he was taken to the Jail hospital on 06.08.2002 for treatment. On 07.08.2002, at about 3.00, he suffered with a convulsion, spitting foam and immediately, the Jail doctors had visited him and gave a first aid. As his health was becoming even worse, he was sent to the Tiruchirappalli Government Hospital for further treatment. While undergoing treatment, on 07.08.2002, Dhanapal had passed away. On 08.08.2002, through the hearsay by the Jail Doctors and through a magazine they came to know about the death of Dhanapal. They gave a statement that Dhanapal had died only due to convulsion and the Jail Officers had not assaulted him in any way.

Statement of Mr.R.Duraisamy, Central Jail Officer, Tiruchirappalli, with regard to the death of the inmate/Dhanapal is as follows:-

Jail inmate No.6853 Dhanapal @ Thangappan S/o Kaliyan hailing from Azhavaikal Pillayar Kovil street, Orathanaadu circle, Thanjavur is accused in Crime Nos.58/2002, 74/2002 registered by Kallaperambur Police Station and in Crime Nos.8/2002, 19/2002, 29/2002, 420/2002 and 470/2002 for the offence under Section 379 of IPC registered by Thanjavur Taluk Police. He was ordered to be remanded for 15 days till 16.08.2002 by the Judicial Magistrate No.2, Thanjavur. He was remanded till 05.08.2002 in the Central Jail, Tiruchirappalli. On 07.08.2002 evening, as he had suffered from convulsion, first aid was given by Jail Doctor. As per the recommendation of Jail Doctor, at about 16.00 hrs, he was sent to the Tiruchirappalli Government Hospital with an escort for treatment. At about 16.45 hrs, the medical officer in the intensive care unit of the hospital had informed that he is dead. On 07.08.2002 at about 6.00 p.m., the police station situated at hospital had conveyed the



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same to Inspector of Police of the respective police station. In his statement he has stated that the death of Dhanabal was only a coincidence.

Statement of Mr.Chokkalingam, Central Jail Medical Officer, with regard to the death of inmate is as follows:-

On 05.08.2002, jail inmate No.6853 Dhanapal @ Thangappan was admitted in the Tiruchirappalli Government Medical College Hospital and was given treatment for fever. Thereafter, on 07.08.2002, as he had suffered convulsion, I was asked to give first aid to him. After the first aid, he was sent to the Tiruchirappalli Government Medical College hospital for further treatment. While sending him to the hospital, we were not in a position to record his pulse rating and blood pressure. As there was secretion aspirating from his mouth, he suffered from crepitation in lungs. Hence in his statement he had stated that the cause of death of the inmate was convulsion.

Statement of Mr.S.Ramalingam, Inspector of Police, Thanjavur Taluk Police Station, with regard to the death of the inmate is as follows:-

Since 21.06.2002, I am working as Inspector of Police, Thanjavur Police Station. I conduct investigation and enquiry in the crime cases, involving theft of electric wires and house breaking, within the jurisdiction that comes under Thanjavur Taluka Police Station and Vallam Utkottam region, as per the directions issued by the Superintendent of Police, Thanjavur and Vallam Utkottam region. Mr.Sakthivel, Inspector of Police, Kallaperambur Police Station, Mr.Tamilarasan, Sub-Inspector (Crime), Vallam Police Station, Mr.Govindharajan, Sub-Inspector, Thanjavur Taluk Police Station and 455, 686 Head Constables of Vallam Utkottam, 1430, 1968 & 2826 Grade I Police Constable, including myself were formed as a team to conduct investigation in the cases involving theft of electric wires. Based on the confirmed information, on 01.08.2002 at about 16.00 hrs, he along with this team went, went to the scene of occurrence i.e., Tea shop run by one Sekar near the rountana situated in the Thanjavur Mariyamman Kovil by-pass road, wherein the accused persons 1. Kadhira @ Kathiravan age 22/2002 S/o Kaliyamoorthi, Erikarai Street, Naduvur, 2. Selvaraj Age 36/2002 S/o Karuppaiah, Arasadi Keelatheru, Thiruthuraipoondi Tharsamayam Naduvur, 3. Dhanbal @ Thangappan age 32/2002 S/o Kaliyan, Pillayar Kovil Street, Aalivaikal 4. Tamilarasan @ Tamil age 32/2002 S/o Subbaiah Kudiyruppu Papanasam, were found standing in a suspicious manner, along with a TVS 50 vehicle loaded with a gunny bag and one axe-saw blade. When they were intercepted, the police team electric aluminium wires were found in the gunny bags. The accused persons have voluntarily surrendered to the police team. A1 at about 16.00 hrs, A2 at about 17.30 hrs, A3 at about 18.00 hrs and A4 at about 18.30 hrs, gave their statements in front of the witnesses 1.Lenin S/o Stalin, Ramapuram 2. Periyasamy S/o Periya Karuppur Devar, Mariyamman Kovil. One TVS 50 vehicle bearing No.TN45 /1774, a gunny bag containing aluminium wires and one axe-saw blade were seized from the accused person from the place of occurrence in the presence of witnesses and there were kept under mahazar. At 17.00 hrs, the accused were arrested. As per the statement of the accused, they conducted a search in Kollangarai, Sadaiyar Kovil, Nayakkan Kottai, Kadukaval, Reddiyarpalayam, Kalla perambur.

Accused thereafter started to Tanjore with witnesses. They seized 34 melted aluminium canisters from Seikh Dawood aged 40 of 2020 s/o Mohamed Ali, Ramasamay Mettu Street, Maanambu



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Savadi, Keelavasal, Tanjore in connection with Crime No.8/2002, 19/2002, 29/2002, 420/2002 and 470/2002 on the file of the Kallaperambur Police Station and Crime NO,58 of 2002 and 74 of 2002 under Section 379 of IPC, who was in the shop identified by the accused. The accused at 24.00 hours came to Tanjore TALuk Police Station with the trace and they were subjected to physical examination and handed over the possession to the Grade I Police 1771. On 02.08.2002 at 13.00 hours the accused were produced before the Judicial Magistrate-II, Tanjore by the Head Constable 455 and grade I Police 653 and the accused were remanded to judicial custody for 15 days at Tanjore Sub Jail. It was advised to the police officials not to harass the accused persons.

On 05.08.2002, Sathish @ Sathishkumar was arrested with regard to Crime No.71 of 2002 under Section 392 IPC and produced before the Judicial Magistrate II by the Head Constable 455, Grade I Police 2518 and remanded to the Tanjore Sub Jail. At that time, they were directed to produce Dhanabal @ Thangappan to Central Jail, Trichy and on the same day he was handed over before the Central Jail, Trichy. On 07.08.2002, at 21.00 hours, the Station Writer, Head Constable 603 got an information from the Central Jail Trichy through Phone as the accused died due to heart attack, who was based in Orathanadu Police jurisdiction and hence, information was given to Orathanadu Police Station in order to intimate his relatives about his death. He also confessed that the accused was not harassed by the police officials in any way.

The statement given by the Kalpanadevi, Dean, Trichy Government Hospital with regard to the death of inmate is as follows:

On 07.08.2002, at 4.45 hours, Trichy Central Jail inmate No.6853, Dhanabal @ Thangappan was brought to Trichy Government Hospital. At that time, he was working in emergency department. I noticed that the accused died on the way to the hospital.

On 07.08.2022, the post mortem evidence and chemical analysis report of body organs by the Police Medical Professor of law, Trichy Ki.Aa.Pe Viswanatham Medical College gave the following opinion in regard to the death of the said inmate.

It is stated in the report as "The deceased would appear to have died of in view of the Decompositional changes and negative chemical Analysis report. No definite opinion could be given regarding the case of death. But however, death due to Cardio cerefral Pathology could not be ruled out"

Hence, as per expert opinion given in the Post mortem report and chemical analysis report, the death of the inmate Dhanapal @ Thangappan S/o Kaliyan caused naturally. I hereby enclose documents of investigation and report given by the Superintendent of Central Jail, First Information Report, post-mortem report and chemical analysis report.

*Sub Divisional Magistrate &
Revenue Divisional Officer,
Tiruchirappalli.*



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19. There are several discrepancies noticed upon comparison of the report of RDO and the records submitted and the prayer in this writ petition could be decided simply based upon the anomalies that emanate.

20. In considering a prayer for mandamus seeking compensation, there must be clarity and certainty with regard to the facts involved. While complete clarity is rare, one way by which some amount of certainty may be ascertained is by an examination of the official documents and the consistency that they portray in relation to the events in question.

21. Such examination will reveal not just certainty in facts but also the approach of the official respondents in dealing with the matter. If the approach is seen to be biased, this, by itself, would be a pointer to the unfairness of the investigation, paving way to a conclusion in favour of the complainant.

22. The Revenue Divisional Officer proceeds on the basis that the individual was arrested and remanded to custody, though there is no specific mention of the arrest *per se*. He states that the '*accused was remanded to custody for 15 days*'. There is thus no finding specifically in regard to a proper arrest of the individual as contemplated under law. The version of the petitioner regarding abduction by the police and illegal detention



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thereafter, is supported by her complaint, the complaint of the individual's second wife and the Panchayatdhars.

23. The Revenue Divisional Officer does not deal with these statements or the contents thereof in the least. He records the statement of the other inmates, who have deposed to the effect that the individual was taken to the jail hospital on 06.08.2002 for treatment. This finds no reference in the records that have been produced before us and despite specific opportunity having been given to the respondents to produce those records in support of this visit to the jail hospital, which has to be mandatorily recorded, they have been unable to produce the same. This is a serious anomaly.

24. The jail inmates have also deposed that on 07.08.2002, the individual suffered an conversion and the jail doctors had given him first aid. This position has also not been recorded and despite specific opportunity, the respondents have been unable to produce any record in regard to this alleged occurrence.

25. The statement of the jail inmates is thus testimony to the fact that the compromised health situation of the individual has consciously been suppressed by the respondents. It follows that their version of events is not to be believed,



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as it does not represent the truth. The records reflect the events only from 07.08.2002, the date when Dhanapal was sent to Trichy Government Hospital and declared dead on arrival and there has been rank suppression of the events of 05.08.2002 and 06.08.2002 relating to the poor health of Dhanapal, his treatment in the jail hospital and the convulsion suffered by him. The suppression in the official records would never have been detected had the records not been directed to be produced and this is fatal to the case of the respondents.

26. The Revenue Divisional Officer has recorded the statement of the Central Jail Officer and Central Jail Medical Officer, both at Trichy, and the Inspector of Police, Thanjavur Taluk Police Station. They have deposed to the ill-health of Dhanapal as well as treatment in the jail hospital. The deposition of the Central Jail Medical Officer supports the statement of the inmates that Dhanapal was unwell even as on 05.08.2002. However the records are silent in this regard.

27. According to the Central Jail Medical Officer, the individual was admitted in Trichy Government Hospital on 05.08.2002 for indigestion. According to the inmates, he had been treated in the Jail Hospital on 05.08.2002 and 06.08.2002. There is no reference of any incident on 06.8.2002



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and according to the Central Jail Medical Officer, it is only on 07.08.2002 that the individual had suffered a convulsion, when he was given first aid. These are serious lacuna in the records that establish that not just the records but even the narration of events by the respondents is false, to their knowledge.

28. The post mortem certificate is dated 09.08.2002 and reads thus:

<i>To</i>	<i>Deceased Address</i>
<i>The RDO and SDM Tiruchirapalli</i>	<i>Dhanabal @ Thangappan S/o.Kaliyan Agnivaikal, Pillaiyar Koil Street</i>
<i>P.M.No.631/02 dated 09.08.02</i>	
<i>R.P.No.6853</i>	
<i>Cr.No.249/02 dated 07.08.02</i>	

POST MORTEM CERTIFICATE

Regarding the body of a Male aged about 32 years named Dhanapal @ Thangappan.

Requisition received at 2.40 p.m. on 09.08.02 from the R.D.O. and S.D.M. of Tiruchirapalli with his letter No.RC.A1/5158/02 dated 09.08.02.

Body in charge of police constable No.Gri.P.C.1598 named Mr.Murugaiyan.

Identification and caste marks:

1.A Black mole on the right maxillary region.

2.A Black mole on the left maxillary region.

3. Rising sun green colour tattoo marks and letter K.T on the front of left forearm.

The body was first seen by the undersigned at 4.00 p.m. on 09.08.02.

Its condition then was Rigor mortis present in the lower limbs.



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Post mortem commenced at 4.00 p.m. on 09.08.02.

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Appearances found at the post mortem : - Early decomposed body of male. Finger and toe marks-intact, cyanosed; penis-not circumcised. Scrotum – bloated. Signs of decomposition:- face, abdomen bloated. Decomposed fluid discharge from both nostrils; post mortem blobs on the front of neck; Peeling of cuticle present; scalp hair comes off with resistance. WOUNDS: 1) A linear transverse whit fibrous tissue on the right buttock to a length of 5.5 cms. 0/0 the base is pale and surrounding and underlying issues are normal – old would scar . No other external, internal and bony would present.

Other findings:-

Peritoneum, pleura and pericardium – normal; mucous caps; Heart – flabby; Chamber contain clotted blood; coronary patent; Great vessels; atheromation plaques present. Lungs – Early decomposed; congested; Larynx and trachea and Hyoid bone – intact; stomach contains mucouschyme; no specific smell; mucosa – early decomposed, patchy congestion. Liver, spleen, kidneys – early decomposed congested. Small intestine- filled with gas; Bladder – intact; empty; pelvis; scalp; bones and memrances intact. Brain – Petechiaefied; anatomeal configuration altered due to decomposition; spinal column and cord intact. All other internal organ o –C/s early decomposed and congested.

Opinion : Reserved pending Chemical Analysis Report.

(Viscera preserved and sent for chemical Analysis)

1) Dr.A.Karthikeyan,M.D.

*Police Surgeon and Professor of
Forensic Medicine*

*K.A.P.V.Govt Medical College,
Tiruchirappalli 620 001.*

2) Dr.R.V.S.Renuka Devi

Tutor in Forensic Medicine



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*K.A.P.V.Govt Medical College,
Tiruchirappalli 620 001.*

*Tiruchirappalli
09-08-02*

29. The post mortem has been conducted only on 09.08.2002 when the demise of Dhanapal was on 07.08.2002. The requisition for post mortem is itself dated 09.08.2002 at 02.40 p.m., and there is no explanation whatsoever as to why the body of Dhanapal was retained by the authorities for 48 hours from demise without reference to post mortem. The body has decomposed in the interim as no measures have been taken to preserve the same in formalin.

30. It is all too apparent that the attempt of the authorities was to disrupt the integrity of the body and ensure its decomposition so that all evidence of violence would stand effaced / erased. This is a calculated attempt of the police authorities. The reference to or post mortem has been made on 09.08.2002 jointly by the Revenue Divisional Officer and the Sub Divisional Magistrate of Tiruchirappalli and in the absence of explanation tendered for retention of the body of Dhanapal for 48 hours before reference to post mortem, I am of the unambiguous view that the petitioner is entitled to mandamus as sought for.

31. Vide G.O. Dated 14.02.2023 compensation payable stands enhanced as follows:



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S.No	Description	Financial Payable	Relief
1	(i) Death due to police torture (ii) Death due to police firing (iii) Rape by police	Rs.7.50 lakhs Rs.7.50 lakhs Rs.7.50 lakhs	
2	Permanent incapacitation	Rs.7.50 lakhs	
3	Death in police custody where direct torture could not be established (like negligence in giving treatment etc)	Rs.3 lakhs	
4	(i) Victim commits suicides due to instigation / ill treatment by police (ii) Where there is partial incapacitations such as loss of eye / hand/limb (iii) Case of torture which is proved by JM/RDO inquiry (i.e., custodial violence not resulting in death / permanent / partial incapacitation)	Rs.3 lakhs Rs.3 lakhs Rs.3 lakhs	



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32. This Writ Petition is allowed. The petitioner will be paid compensation of Rs.10,00,000/- within four weeks from date of receipt of this order both for custodial torture and demise of Dhanapal in police custody. If payment is delayed beyond the period as aforesaid, interest will be paid at 8% p.a. for the amount of compensation ordered. No costs.

26.06.2023

Index : Yes / No

Speaking Order/Non-speaking order

Neutral citation:Yes/No

Sl/sm



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To
WEB COPY

- 1.State of Tamil Nadu
rep. by its Secretary,
Public Department,
Fort St. George,
Chennai 600 009.
- 2.The District Collector,
Thanjavur District,
Thanjavur.
- 3.Inspector of Police,
Kallaperambur Police Station,
Thanjavur District.
- 4.The Superintendent,
Central Prison,
Tiruchirappalli.
- 5.The Superintendent,
Sub Jail,
Thanjavur.



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DR.ANITA SUMANTH, J.

WP.No.33577 of 2005

26.06.2023