



WEB COPY



W.P.No.23868 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 24.02.2023

Pronounced on: 21.06.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

WP.No.23868 of 2012 and
MP.No.1 of 2013

S.Geetha

... Petitioner

Vs

- 1.The Union of India,
Rep by its Secretary to Government,
Department of Revenue & Intelligence,
New Delhi.
- 2.The Director,
Directorate of Revenue Intelligence,
Ministry of Finance (Department of Revenue)
Government of India,
7th Floor, D-Block,
Indraprasatha Bhawan,
Indraprasatha Estate,
New Delhi.
- 3.Senior Intelligence Officer,
Ministry of Finance (Department of Revenue)
O/o, Director of Revenue Intelligence,
No.25, Gopala Krishna (Iyer) Road
T.Nagar, Chennai-600 017.



W.P.No.23868 of 2012

4. The Government of Tamilnadu
Rep by Secretary to Government,
Public (Law & order-E) Department,
Secretariat, Chennai-9.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to pay compensation of Rs.50,00,000/- (Rupees Fifty Lakhs only) to the petitioner for the custodial death of Sathyanarayanan and take suitable action in pursuant to the recommendations made by the 4th respondent in his letter No.2854/L and O-E/2008-2, dated 18.02.2009.

For Petitioner : Mr.Mohan, Senior Counsel
for Mr.M.S.Palaniswamy

For Respondents : Mr.R.Sankaranarayanan,
Additional Solicitor General
assisted by
Mr.V.Sundareswaran (for R1 to R3)
Senior Panel Counsel
Mr.P.Kumaresan,
Additional Advocate General
assisted by
Mr.Alagu Goutham (for R4)
Government Advocate
Mr.Niranjan Rajagopalan
for Mr.Ravichandran (in Crl.OP.11024/2006)

ORDER

The petitioner has filed this Writ Petition arraying Secretary to Department of Revenue & Intelligence (DRI)/R1, Director, DRI/R2, Senior



W.P.No.23868 of 2012

Intelligence officer, DRI/R3 and the Secretary to Government, Public Law and Order, Government of Tamil Nadu/R4, as respondents.

2. The submissions in support of her prayer for mandamus directing R1 to R3 to pay compensation of a sum of Rs.50.00 lakhs for the custodial death of her husband and suitable action to be taken pursuant to the recommendations of R4 in letter dated 18.02.2009, are as follows:

- (i) Her husband was employed as Manager (sundry) in V.R.Marketing (M) SDNBHN, having its head office in Malaysia.
- (ii) Investigation was initiated by R3 under the provisions of the Customs Act, 1962 (in short 'Act').
- (iii) The office premises of the petitioner's husband was subjected to search on 21.04.2006.
- (iv) Summons was issued pursuant to that investigation to the petitioner's husband directing his appearance on 21.04.2006 at 20:45 hrs. On that day, the petitioner states that her husband was taken into custody without any basis and illegally detained in the office of R3.
- (v) He was brought to the petitioner's house at No.9E, New Street, Ayyavoo Colony, Aminjikarai, Chennai ('residential



WEB COPY



W.P.No.23868 of 2012

premises’/’residential premises in question’) at about 4.30 p.m. on 22.04.2006 for conduct of search of the residential premises by the officers. She alleges that there was no warrant authorising the search.

- (vi) Herself, the parents of her husband and his brother-in-law were present when the petitioner’s husband and the officers entered the house.
- (vii) The petitioner resides in a flat on the second floor of the building, above which was an open terrace.
- (viii) The searched party comprising eight persons searched the entirety of the house. They are accused of having manhandled the petitioner’s husband and abusing him. Thereafter and without any provocation, the petitioner would allege that the officers, including R3, took her husband to the open terrace and physically assaulted him.
- (ix) An officer by name Mr.Chandrasekar then hit her husband in the stomach, driving him to the parapet wall of the terrace and over it. Her husband fell down from the third floor and was found dead when the petitioner rushed down the stairs along with his parents.



W.P.No.23868 of 2012

WEB COPY

(x) The entire search party went away from the scene of occurrence without further ado.

3. Various submissions have been made touching upon the veracity of the proceedings under the Act itself. The petitioner alleges that the procedure followed was improper and no notices/authorization or summons as required under the Statute or Rules were issued.

4. According to the petitioner, her husband was in the custody of the officers at all times and could not have gone to the terrace himself to commit suicide, which is the defence of the respondents. The only reason why he went to the third floor was at the instance of the respondents who wanted to abuse him unseen by other eyes.

5. She also would lament the inhuman attitude of the officers who after having seen her husband's fall to his death went away without even waiting to offer medical help or assistance in any way. This itself, according to her, points to their guilt.

6. A complaint was filed on behalf of R3 by one Mr.R.Arunsingh, Senior Vigilance Officer, on 22.04.2006 at 7.00 p.m. before the Aminjikarai Police Station. That complaint refers only to the presence of the parents of her husband and it does not refer to her presence. According to the petitioner,



W.P.No.23868 of 2012

contradictory statements have been made by the officers which would establish that they are the cause of his death.

7. The complaint/FIR does not contain a proper explanation as to how her husband went to the terrace and how his parents, who were initially stated to have followed him upstairs, were available at the scene of the fall to engage an auto to move him to the hospital.

8. The petitioner also filed a complaint before K3 Aminjikarai Police Station on the same day under CSRNO/28/K3PS/06. She does not however refer to the same in the writ affidavit but, on the other hand has disavowed the contents of that complaint in her affidavit dated 29.08.2012. She states therein that the contents of that complaint were incorrect and that she was asked to merely affix her signature on a complaint that had been drafted by the Senior Vigilance Officer.

9. An inquest was held in the presence of Panchayatdhars on 23.04.2006. The Panchayatdhars had held unanimously that the cause of death was physical and mental torture by the officers of the Customs Department and not suicide.

10. Since the demise of her husband occurred while in the course of search of the premises, the matter was referred to the Sub-Divisional Magistrate and District Backward Classes and Minority Welfare Officer, Chennai for



enquiry forwarded to the Collector and thereafter to R4. The enquiry conducted under Section 151 of the Code of Criminal Procedure (in short 'Cr.P.C.') gave an entirely different version which militated against the version of the incident as set out by the authorities.

11. R4, vide communication dated 18.02.2009, agreed with the report of the Enquiry Authority and the District Collector that applicable guidelines and proper procedure had not been followed by the DRI officials while conducting the raid at the premises of the petitioner's husband and they were, hence, responsible for contributory negligence in his demise.

12. Departmental action was recommended to be initiated against the following DRI officials, who were part of the team that had conducted the search:

1. Mr.R.Arun Singh (Senior Vigilance Officer)
2. Ms.Susan Vargese (Senior Vigilance Officer)
3. Ms.Nalini Rajan (Intelligence Officer)
4. Mr.Sukumar Suresh (Intelligence Officer)
5. Mr.Ramakrishnan (Intelligence Officer)
6. Mr.Girish (Intelligence Officer)
7. Mr.Chandrasekar (Intelligence Officer)
8. Mr.Ram (Intelligence Officer)

13. Despite the specific recommendation of R4, R2 has not taken effective action as against the officers, the petitioner alleges. In the course of hearing and on a specific query raised by the Court, R1 to R3 have confirmed



that an enquiry was initiated based on the recommendations of R4 where, by proceedings dated 26.05.2009 the officers were found to have been blameless and the enquiry closed along those lines.

14. In conclusion, in the writ affidavit, the petitioner would state that she had witnessed the entire occurrence and swears to the position that it was R3 and the officers of the DRI who had tortured her husband, Intelligence officer Chandrasekar being responsible for kicking him over the parapet wall. She relies on the report of the Panchayatdhars and the enquiry conducted by the Sub-Divisional Magistrate, that, she states, is in support of what she witnessed.

15. She relies on the decision of the Division Bench of this Court in *K.Kabali @ Kabalesswaran v. State of Tamil Nadu and others* [2006-3-L.W. 81], which concluded with the Division Bench finding negligence on the part of the Police officials in that case and directing compensation to be paid.

16. Per contra, the respondents would vehemently deny any involvement in the demise of the petitioner's husband. They do admit to investigation having been conducted under the applicable provisions of the Act. However, according to them, those investigations and other enquiries had been conducted strictly in line with the provisions of the Act.



W.P.No.23868 of 2012

17. Notices and summons had been issued as required. Search had been conducted after proper warrant of authorization having been issued. There was thus no merit in the allegations that the actions had been unsupported by relevant provisions of the Act. The respondents were directed to produce the files to establish that proceedings had been conducted in line with the stipulations under the Act and applicable Rules and Regulations.

18. The respondents have filed a compilation dated 11.04.2022 containing documents from S.Nos.4 to 10 being (i) copy of warrant of search under Section 105 of the Act (ii) Summons dated 21.04.2006 issued under Section 108 of the Act to the petitioner's husband directing his attendance at 20:45 hrs at the office of the Directorate of Revenue Intelligence, No.25, Gopalakrishna (Iyer) Road, T.Nagar, Chennai – 17 (iii) Seizure Mahazar dated 21.04.2006 (iv) Statement of petitioner's husband dated 21.04.2006 (v) Summons dated 21.04.2006 issued under Section 108 of the Act to the petitioner's husband directing his appearance on 22.04.2006 at 10.00 a.m. at the office of the Directorate of Revenue Intelligence, No.25, Gopalakrishna (Iyer) Road, T.Nagar, Chennai – 17 (vi) Warrant of search dated 22.04.2006 of the residential premises in question, issued under Section 105 of the Act (vii) Mahazar of witness dated 22.04.2006.



W.P.No.23868 of 2012

19. The above documents are stated to form part of the official records and there is no avenue to suspect the same in any way. The petitioner has also not pointed out any lacunae or error in the documents filed. Thus, on this score, this Court concludes that there is no infirmity as far as the procedure followed in the conduct of investigation proceedings barring the events leading to the unfortunate demise of the petitioner's husband.

20. I hasten to add that it is quite another matter as to whether the petitioner is entitled to compensation or whether enquiry is to be ordered as against the officials of the DRI as prayed for and these questions will be considered shortly.

21. It is the defence of the respondents that in the course of enquiry on 22.04.2006, the petitioner's husband, midway through the investigation, ran up the stairs to the open terrace. He was followed by his parents. Events after this point are a little unclear as to whether any officer of the search team went upstairs in his pursuit or remained where they were.

22. While it is the petitioner's version that her husband was taken upstairs at the instance of the officer and that some of the officers did follow him to the terrace, the FIR records the version of the respondents that the officer remained in the searched premises and did not follow him. Upon



hearing a thud and some commotion, the officers proceeded downstairs to the compound.

23. After ascertaining that the petitioner's husband had fallen to his death, the search party left the proceedings. Thus the respondents would disavow any involvement in the demise of the petitioner's husband stating categorically that he had chosen to commit suicide rather than cooperate in the investigation.

24. They however deny that they had been responsible for his decision as the proceedings initiated were scrupulously in line with the statutory provisions. There was no detention of the petitioner's husband as alleged. He had not responded to the summons on 21.04.2006 and thus the question of detention does not arise at all. On 22.04.2006, he had come to their office and the team had asked him to accompany them for the search of his residential premises. There had been no force applied, let alone excess of force and hence they cannot be held responsible for his demise.

25. The Revenue relies on the judgment of the three Judges of the Hon'ble Supreme Court in *Sube Singh v. State of Haryana and others* [(2006) 3 SCC 178] and it is their submission that the award of compensation can be considered only in cases where it is incontrovertible that there has been



custodial death or torture. In the present case, this burden of proof has not been discharged by the petitioner and hence the request must not be considered favourably.

26. Pending Writ Petition, there is one development which has been argued in detail by both sides. The petitioner is stated to have moved a Criminal Original Petition bearing No.11024 of 2006 seeking a direction under Section 482 of the Cr.P.C. to the first respondent, the Inspector of Police, K3, Aminjikarai Police Station to register a case based on her complaint dated 22.04.2006, investigate the same and file a final report.

27. That Crl.O.P. came to be closed on 12.06.2006, this Court recording that the learned counsel for the petitioner had made an endorsement that the petitioner was withdrawing the petition. The counsel, as per order dated 12.06.2006 was one Mr.B.Kumarasamy. According to the learned counsel for the petitioner, the petitioner had never instructed any Advocate to file a Criminal Original Petition. Thus, by order dated 16.09.2022, my predecessor had directed thus:

Issue notice to Mr.B.Kumarasamy, the learned counsel appeared on behalf of the petitioner in Crl.O.P.No.11024 of 2006 returnable on 28.09.2022.

2.The additional affidavit filed by the petitioner is taken on record.



*3.The Registry is directed to print the name of the State Public Prosecutor. Post the matter on 28.09.2022.
Order dated 28.09.2022*

Mr.B..Kumarasamy, learned counsel who originally filed the Criminal Original Petition on behalf of the petitioner present and he submitted that he has filed petition on the instruction of one Advocate M.Ravichandran. The Crl.O.P has been filed for a direction to register a complaint given by the Writ Petitioner. Since the Police has already registered the FIR based on the report, the Criminal Original Petition has been withdrawn and his statement is recorded to that effect counsel is required to file an affidavit.

2.Issue summons to the Advocate M.Ravichandran.

3.Post on 18.10.2022. In the meanwhile, learned Government Advocate (Crl.Side) is directed to file all the certified copies relating to the investigation conducted in the case in the next date of hearing.

28. Mr.Kumarasamy has filed an affidavit dated 18.10.2022, after receipt of notice from this Court. According to him, it was one Mr.M.Ravichandran, a member of this Bar, upon whose instructions, the Criminal Original Petition was filed based on the complaint of the petitioner dated 22.04.2006. He would state that the petition had been prepared by him and handed over to M.Ravichandran on 25.04.2006. He thereafter made a mention before the concerned Court and obtained a slip for the hearing on 26.04.2006.

29. The following parties were arrayed as respondents: (i) State rep. by, The Inspector of Police, K3 Aminjikarai Police Station, Chennai, (ii)



W.P.No.23868 of 2012

Chandrasekaran, Senior Intelligence Officer, Department of Revenue Intelligence, Chennai. (iii) J. Balakrishnan, Assistant Director, Department of Revenue Intelligence, Chennai.

30. The Crl.O.P. was listed for admission on 26.04.2006 and notice was ordered to R1. The matter was listed thereafter on 12.06.2006. On that day, the learned Additional Public Prosecutor brought to the notice of the Court that a case had been registered in Crl.O.P.No.409 of 2006 under Section 176 Cr.P.C. based upon the complaint by the Senior Intelligence Officer, DRI in respect of the very same incident.

31. It was thus that this Court, noting that a case had been registered for the same incident and that investigation was on-going, advised the learned counsel to withdraw the Crl.O.P. Thus, his junior, one Mr.R.Babu, made an endorsement for withdrawal and the Crl.O.P. was dismissed on 12.06.2006. He would confirm that he had never met the petitioner in person and that the entirety of the Crl.O.P. had been triggered only by the instructions given by Mr.Ravichandran.

32. The said Mr.Ravichandran has also filed affidavit dated 11.11.2022, pursuant to summons from this Court. In his affidavit, he states that the petitioner was well known to him for many years. She had contacted him on



21.04.2006 around noon requesting assistance in regard to the customs matter.

He was informed by her that her husband had been taken to their house with Mr.Chandrasekar and Mr.Balakrishnan, DRI officers.

33. While he was enroute to their house, he received a phone call informing him of the demise of the petitioner's husband. He thereafter accompanied the petitioner to the police station and filed a complaint advising the Writ Petitioner that a Criminal Original Petition must be filed seeking direction for registration of the complaint. One discrepancy herein is that the phone call is stated to be on 21.04.2006 whereas the events in question leading to the demise of the petitioner's husband took place on 22.04.2006.

34. Upon receipt of her instructions, he engaged Mr.Kumarasamy for taking necessary steps and pursued the filing of CrI.O.P. Thereafter, his version of events aligns with that of Mr.B.Kumarasamy in his affidavit. It is however the categorical statement of the petitioner under additional affidavit dated 16.09.2022 that she had never instructed Mr.Kumarasamy to take steps to file the Criminal Original Petition. She states that she does not know who Mr.B.Kumarasamy is and had never instructed him to file any petition on her behalf.



35. She has filed a separate counter affidavit in relation to the affidavit filed by Mr.Ravichandran and denies knowledge of this person as well. She expressly states that she does not know him and thus the question of contacting him to state that her husband was taken into custody on 21.04.2006 does not arise.

36. She denies that he had accompanied her to K3 Aminjikarai Police Station and that any advice had been given by him in regard to the legal steps to be taken by her. There is a discrepancy in this statement in so far as, in the complaint filed on 22.04.2006 by the Petitioner under C.S.R.No.28/28/K3PS/06, the Petitioner has mentioned the presence of two persons with her, S.Thamizharasan and Ravichandran.

37. She also disavows the contents of the complaint stated to have been filed by her before the police station on 22.04.2006 which is the reason why perhaps the complaint does not figure as part of the writ affidavit at all. She agrees that the complaint has been signed by her. However, the contents, she states, were the version of the police officials and she merely and hastily signed the same. She states that she is not aware of the stage of that complaint. This aspect of the matter has cast a pall over the version of events as projected by the petitioner.



38. The Court is cognisant of the fact that in matters involving complex and torturous facts such as these, the persons involved would be in a great deal of confusion, uncertainty, grief and panic. One could thus be expected to be faced with conflicting statements made to different persons and different versions of events emanating from various parties that would have to be reconciled to arrive at the truth, or what one believes, is the truth.

39. As regards the filing the Crl.O.P., the petitioner would state that the records indicate that the Crl.O.P. was filed on 25.04.2006, three days after the demise of her husband and she was in no frame of mind to contemplate litigation at that time. She denies her signatures in the vakalatnama and in the Criminal Original Petition and reiterates that she has filed no cases apart from the present Writ Petition and complaints/representations made to other authorities seeking compensation. In fine, she states that the facts as relating to the Crl.O.P. casts 'heavy doubt on the acts of the respondents'.

40. Much has been made of this matter and, in my view, this peculiar sequence of events provides some guidance as to the conduct of the parties, though the Crl.O.P. having been dismissed as withdrawn, might only have limited bearing on the adjudication of the petitioner's prayer.



41. It is the specific allegation of the respondents that the withdrawal of the Crl.O.P must be seen to be an indication that the petitioner did not intend to press any charges or pursue litigation as against them. They seek, in effect, to taint her conduct stating that she did not pursue her police complaint and chose instead, to withdraw the Crl.O.P. On the other hand, it is the petitioner's allegation that the respondents have some connection to the Crl.O.P, going to the extent of alleging forgery of her signature.

42. Neither submission appeals. If really, the petitioner had filed the Crl.O.P. and withdrawn the same thereafter, there may have been any number of reasons for such withdrawal. In fact, the order in Crl.O.P records that the closure was on account of another complaint filed by the officer relating to the same incident. This cannot lead to any adverse conclusion drawn as against the petitioner.

43. Then again, if indeed the respondents were responsible for the death of her husband, it would be contra to their interests to have filed the Crl.O.P seeking registration of the petitioner's complaint. Thus no motive can be attributed to the respondent as well in the filing of the Crl.O.P under false pretences and braving the grave repercussions of the same.



W.P.No.23868 of 2012

44. In order to satisfy myself, the records of the CrI.O.P were called for and the signatures therein compared with those in this writ affidavit. It is true that there is no stroke to stroke match available and even to the untrained eye, there are some differences that are visible.

45. However, there is no need for this Court to delve further into this matter as the petitioner has not chosen to pursue the matter further by seeking to subject the signatures for forensic testing. On a balance I prefer to let this issue rest rather than distract the Court from ascertaining the true events of 22.04.2006. However, the discrepancies that it has brought to light, as noted in the preceding paragraphs, have weighed with me in the ultimate conclusion arrived at.

46. Coming to the events of 22.04.2006 itself, the respondents have filed a compilation dated 11.04.2022, documents at S.Nos.1 to 3 dealing with the Criminal Original Petition, which issue has already been dealt with by me above and documents from S.Nos.4 to 10 relating to the procedure followed for investigation under the Act. These documents, touching upon the investigation conducted under the provisions of the Customs Act, reveal to me the trajectory of events.



47. The investigation commenced with search warrant dated 21.04.2006 in respect of the office premises of VR Marketing and summons directing the attendance of the petitioner's husband on 21.04.2006 at 20:45 hours at the office of the Directorate of Revenue Intelligence, No.25, Gopalakrishna (Iyer) Road, T.Nagar, Chennai – 17. The proceedings continued with issue of summons dated 21.04.2006 directing attendance of the petitioner's husband on 22.04.2006 at 10.00 a.m. at the office of the Directorate of Revenue Intelligence, No.25, Gopalakrishna (Iyer) Road, T.Nagar, Chennai – 17.

48. Thereafter, a warrant for search of his house on 22.04.2006 was issued and the presence of the officers in the residential premises on 22.04.2006 is supported by this search warrant. In support of the allegation that the petitioner's husband was illegally detained between 21.04.2006 and 22.04.2006 in the custody of R3, in his office, the petitioner has referred to a phone call made by her husband to her at 8.00 p.m. stating that he was in the office of the officials and was being tortured. There is no record or evidence produced to substantiate any such call having been received by the petitioner, such as phone records, and this statement has been specifically denied by the respondents.

49. As it is quite normal for investigation to continue beyond standard office hours, the allegation regarding illegal custody calls for some definite



evidence/proof. The Court is conscious of the fact that in matters such as these, it is well nigh impossible for the complainant to have cast iron evidence in their possession to establish their version of events.

50. In the present case, there is no material at all available in support of the allegation of illegal detention and thus the Court must decide this allegation based on the circumstantial evidences. There is nothing to indicate compliance of the petitioner's husband to the summons issued calling for his appearance on 21.04.06. Further, the petitioner does not refer to any attempt by her or the family to contact him over the phone or to reach him at the office premises of the respondents which would seem the likely reaction, particularly if the petitioner has, as she claims, received a phone call from her husband alleging torture.

51. She also does not refer to any statement of his at any other point of time to the effect that he was detained at the customs office. I am hence unable to accept the statement of the petitioner that her husband was detained in the custody of the customs officer between 21st and 22nd of April, 2006 and the submissions on this count are rejected.

52. The parents of the petitioner's husband have filed a petition to implead themselves, which has been stoutly objected to by the respondents who



W.P.No.23868 of 2012

state that the application is filed belatedly and that there is no substance in the same. This petition, though filed in 2013, has not been ordered till the final hearing of this Writ Petition and hence, at this distance in time and seeing as this order disposes the Writ Petition filed in 2012, I see no reason to order this implead petition. Hence, the implead petition is dismissed.

53. What remains is to ascertain the cause of demise of the petitioner's husband. For this, the events as stated by the various persons/authorities, the petitioner, the SIO in the FIR, the report of the Sub-Divisional Magistrate and District Backward Classes and Minorities Welfare Officer dated 12.12.2006 and the report of the District Collector dated 18.02.2009 must be reconciled to separate chaff from the grain and arrive at the possible/plausible sequence of events. The complaint filed by the petitioner reads thus:

CSRNO/28/K3PS/06

22.04.06
சென்னை

அனுப்புநர்

கீதா சத்யநாராயணன், 35,
w/o. சத்யநாராயணன்,
No.9-E, New Street,
அமைந்தகரை,
சென்னை - 29.

பெறுநர்

உயர்திரு. காவல்துறை ஆய்வாளர் அவர்கள்,
சட்டம் & ஒழுங்கு,



W.P.No.23868 of 2012

WEB COPY

K-3, அமைந்தகரை காவல் நிலையம்,
அமைந்தகரை,
சென்னை - 29.

நான் கீதா சத்திய நாராயணன் w/o, சத்தியநாராயணன் எழுதிக் கொடுக்கும் புகார் மனு. என்னுடைய கணவர் சத்திய நாராயணன் வீ.ஆர். மார்கெட்டிங் மற்றும் Green Panel அலுவலகத்தில் 9-A, 3rd floor, Alsa Mall, மாண்டியத் ரோடு எழும்பூர், சென்னை என்ற விலாசத்தில் மலேசியாவிலிருந்து MDF plywood board மலேசியாவிலிருந்து இறக்குமதி செய்யும் அலுவலகத்தில் இந்தியாவில் சென்னை அலுவலக பொருப்பாளராக உள்ளார். அவர்கள் என் கணவர் இறக்குமதி செய்யும் அனைத்து பொருட்களுக்கும் இறக்குமதி வரி (Customs duty) முறைப்படி செலுத்தி வருகிறார். அவரிடம் அனைத்து customs duty ஆவணங்கள் செலுத்தி வருகிறார். அவரிடம் அனைத்து customs duty ஆவணங்கள் மற்ற அலுவலக ஆவணங்கள் அனைத்தும் முறையாக உள்ளன. அதற்கு முறைப்படி உரிமம் வைத்து உள்ளார். இதுவரை இறக்குமதி செய்த எல்லா பொருட்களுக்கும் customs duty மற்றும் மற்ற வரிகள் முறையே செலுத்தி வருகிறார். இந்தநிலையில் நேற்று 21-4-2006 காலை 10.30 மணியளவில் Director of Revenue Intelligence, T.Nagar, Chennai அலுவலகத்திலிருந்து 8 நபர்கள் என்னுடைய கணவர் அலுவலகத்தில் நுழைந்து அவரை அடித்து துன்புறுத்தி அங்கு அலுவலகத்தில் இருந்து அனைத்து ஆவணங்களையும் எடுத்து சென்று விட்டனர். இரவு அதாவது (21-4-2006) 8 மணியளவில் என் கணவர் அந்த அலுவலகத்திலிருந்து தொலைபேசியில் தொடர்பு கொண்டு இறக்குமதி சம்பந்தமான கணக்குகளை கேட்டும் மற்றும் நீ சம்பாதித்த பணம் எல்லாம் எங்கு உள்ளது என்று கேட்டு என்று அடித்து துன்புறுத்தி வெற்று வெள்ளை பேப்பர்களில் கையெழுத்து வாங்குவதாகவும் என்னையும் இந்த வழக்கில் சேர்த்து விடுவதாகவும் (கீதா) மிரட்டுவதாக கூறினார். உடனே நான் எனக்கு தெரிந்த உயர்நீதிமன்ற வழக்கறிஞர்கள் S.தமிழரசன் மற்றும் ரவிசந்திரன் அவர்களிடம் இதுபற்றி கூறினேன். அவர்கள் காலை DRI office சென்று பார்ப்பதாக சொன்னார். பிறகு இன்று மதியம் 1.00 மணியளவில் DRI சென்று பார்த்ததாகவும், அவரை இரவு 8.00 மணிக்கு எழும்பூர் நீதிமன்றத்தில் ரிமாண்ட் செய்யப் போவதாகவும் கூறினார்கள். அதற்கிடையில் என் கணவரை “Alsa Mall” அலுவலகத்தில் 8 நபர்கள் DRI office லிருந்து அழைத்து வந்து அலுவலக ஊழியர்கள் முன்பு அடித்து துன்புறுத்தினார்கள். பிறகு 4 மணியளவில் (மாலை) என் வீட்டிற்கு கொண்டு வந்து என் முன் அடித்து துன்புறுத்தி நீங்கள் இந்த



W.P.No.23868 of 2012

இறக்குமதியில் சம்பாதித்த பணத்தை ஒழுங்காக கொடுத்துவிடுங்கள் குற்றத்தை ஒப்புக் கொள்ளுங்கள் இல்லையென்றால் உங்கள் மனைவியை (கீதா) வழக்கில் சேர்ப்பேன் என்று சந்திரசேகரன் பாலகிருஷ்ணன் மற்றும் 6 DRI அலுவலர்கள் என் கணவரை என் வீட்டில் மேல் உள்ள மொட்டை மாடிக்கு அழைத்து சென்று அடித்து உதைத்தனர். நான் தடுக்க சென்ற போது சந்திரசேகரன் என்ற அலுவலர் என்னை கீழே தள்ளிவிட்டு என் கணவரை உதைத்து மொட்டை மாடியிலிருந்து கீழே தள்ளி விட்டனர். நான் பதறிப் போய் கீழே வந்து பார்த்தபொழுது என் கணவர் மண்டை உடைந்து முச்சி பேச்சி இல்லாமல் இரத்த வெள்ளத்தில் கிடந்தார். நான் அழுது சத்தம் போட்டேன். அப்பொழுது அங்கிருந்த DRI அலுவலர்கள் அங்கிருந்து ஓடிவிட்டனர். நான் என் மைத்துனர் நரேந்திரகுமார் ஒரு ஆட்டோவில் சத்தியநாராயணன் (என் கணவரை) ஏற்றிக் கொண்டு அருகிலுள்ள M.R.Hospital கொண்டு சென்றோம். பிறகு அங்கிருந்து கீழ்பாக்கம் அரசு பொது மருத்துவமனைக் கொண்டு போக சொன்னார்கள். என் கணவரை கீழ்பாக்கம் பொது மருத்துவமனைக்கு கொண்டு சென்றவுடன் அங்குள்ள மருத்துவர்கள் அவர் இறந்துவிட்டதாக கூறினார்கள்.

ஆகவே தாங்கள் சமீபம் மேற்படி சம்பவம் குறித்து என் கணவரை கொலை செய்த சந்திரசேகரன், பாலகிருஷ்ணன் மற்றும் 6 DRI அலுவலர்கள் மீது தக்க நடவடிக்கை எடுத்து எனக்கு நீதி வழங்கும்படி தாழ்மையுடன் கேட்டுக்கொள்கிறேன்.

இப்படிக்கு தங்கள் உண்மையுள்ள
ஓம்

(கீதா சத்தியநாராயணன்)

The FIR filed by the SIO records thus:

FIRST INFORMATION REPORT

(Under Section 154 Cr.P.C.)

1.District Annanagar

PS. K3 Aminjikai

Year

2006

FIR No.409/06

Date:22.04.06

2.Act Cr.P.C.

Sections 176 Cr.PC

3(a) Occurrence of Offence Date: 22.04.06 Time:17.30

(b) Information received at PS Date 22.04.07 Time: 19.00

4.Type of Information: Written

5.Place of occurrence: (a) Distance and Direction from PS : ½ Km, south

(b) 9E, New Street, Ayyavoo Colony, II floor, Chennai-29.

6.Complainant / Informant (a) R.Arun Singh



(f) Occupation Senior Intelligence Officer

(g) Directorate of Revenue Intelligence, 25, Gopalakrishna Iyer Road, T.Nagar, Chennai-17.

7.Details of known (suspected / Unknown accused with full particulars

Deceased: Shri K.Sathayanarayana.

8.Reasons for delay in reporting by the complainant/informant: No delay

12.FIR Contents

Submitted:

Received the complaint on 22.04.06 at 19.00 hrs from Mr.R.Arun Singh, Senior Intelligence officer, Directorate of Revenue Intelligence, 25, Gopalakrishna Iyer road, T.Nagar, Chennai-17 which runs as follows. From R.Arun Singh, Senior Intelligence Officer, 25, Gopalakrishna Iyer road, T.Nagar, Chennai-17. To The Inspector of Police, Aminjikarai Police Station, Aminjikarai, Chennai. Sir, based on specific information that M/s.V.R.Marketing (M) SDN BHD and its sister concern M/s.Green Panel Boards are engaged in the under invoicing in the supply of MDF boards and plain particle boards from Malaysia to various Indian importers. This Directorate initiated investigations under the customs Act 1962. The office premises of M/s V.R.Marketing (M) SDN BHD Chennai was searched on 21.04.06 and some incriminating documents in connection with the said under invoicing were recovered under Mahazar dated 21.04.06. Summons were issued to shri K.Sathayanarayana counting Manager of M/s V.R.Marketing (M) SDN BHD Chennai and his statement was recorded on the same day. Subsequently another summons dated 21.04.06 was issued to shri K.Sathyanarayana under section 108 of the Customs Act 1962 for his appearance on 22.04.05 at 10 AM. Shri K.Sathyanarayana did not turn up for enquiry at 10 AM. Instead he came to office at 12.00 hrs on 22.04.06. Then the DRI officers informed Shri.K.Sathyanarayana that they wanted to search his residential premises situated at No.9 E II floor, New street, Ayyavoo Colony, Aminjikarai, Chennai based on the search authorisation issued by the Assistant Director, DRI, Chennai under



WEB COPY

section 105 of the Customs Act, 1962. Then Shri K.Sathyanarayana accompanied the DRI officers for the search of his residential premises. The officers started from office at 16.00 hrs. Then the officers called for the two independent witnesses and entered the residential premises at 17.00 hrs. During the time of officers entry Shri K.Sathyanarayana's, mother father and his brother-in-law was available. The officers showed them the said search warrant and explained to them about the purpose of their visit. During that time shri.K.Sathyanarayana went out from the house. Immediately his mother, father and brother-in-law followed him. The officers then came out of the said house and found that Shri.K.Sathyanarayana fell down from immediately the officers came down and by that time shri.K.Sathyanarayana was taken in an auto by his parents and brother-in-law. The said incident occurred around 17.30 hrs on 22.04.06. The Independent witnesses present were 1.Shri.V.Balasubramaniam son of Shri.R.Venkatesan and 2.Shri N.Sekar s/o, shri.K.Natarajan. The officers who were presented were 1.shri.Sushan Varghese, Senior Intelligence Officer, 2.V.Ramakrishnan Intelligence Officer 3.Smt.Nalini Rajam, Intelligence Officer, 4.Shri Chandrasekar IO, 5.Shri.S.Sugumar suresh IO, 6.Shri.V.Srirm, IO, 7.Shri.Girish IO, of DRI Chennai. Latter we came to know that Shri.Sathyanarayana expired. This complaint submitted for necessary action.

Sd. R.ARUN SINGH.

The above complaint was received on 22.04.06 at 19.00 hrs and registered a case in K3 Aminjikarai P.S. Cr.No.409/06 u/s 176 CRPC and the original FIR along with original complaint was sent to the P.A. Collector (Gen) Chennai collectorate and the copy of the FIRs sent to the officers concerned.

Sd., 22.04.06
Signature of Complainant
R.ArunSingh

Sd., 22.04.06
Signature of the officer/
Incharge Police Station
M.Kumaravelu
Inspector of Police L&O



54. There is no mention of the complaint filed by the petitioner in the writ affidavit and she, in fact, disavows the same in full. There have been some contradictions that arise on a comparison between the complaint and the other pleadings as noted in the preceding paragraphs of this order (see paragraphs 33 to 45). That apart, the presence of the petitioner at the residential premises at the time of search on 22.04.2006 is itself uncertain as the FIR filed by the Officer does not mention her presence there. Neither does the petitioner, in the complaint filed by her.

55. However, the petitioner avers that she was in the premises at that time, making much of the fact that the FIR omits reference to her. These contradictions cannot be brushed aside but have to account for something, and to my mind they are a pointer to the fact that the petitioner's version is not to be taken totally at face value.

56. Though the petitioner's presence, as such, might not be of any consequence to decide the modus operandi of her husband's demise, her conduct, particularly the integrity in facts as projected by her, is critical as to the impression it creates and the weightage that one would attribute to the version that she presents.



57. The disavowal by her, of the complaint filed on 22.04.2004, cannot be accepted without demur and unquestioningly by the Court. No doubt the petitioner might have been shaken and traumatised by the incidents of 21 and 22.04.2006. However there was no need for the names of Thamizharasan and Ravichandran to figure in the complaint if they had not been present with the petitioner and accompanied her to the station. The consequential inference that this Court is led to is that the petitioner's statements cannot be taken as a faithful depiction of the facts and of the events commencing 21.04.2006.

58. The Statement of Panchayatdhars dated 23.04.2006 reads thus:

பஞ்சாயத்தார் கருத்து

காலஞ்சென்ற திரு.சத்ய நாராயணன் என்பவர் எங்களுக்கு நன்றாக தெரியும் அவர் மிகவும் தைர்யசாலி சமூக சேவைகள் செய்து வந்துள்ளார். குறிப்பிட்ட முகவரியில் இறந்த நபர் 7 ஆண்டுகளாக வசித்து வந்துள்ளார். அவருக்கு இறை பக்தி நிறைய உண்டு. மேலும் திருவண்ணாமலைக்கு சென்று கிரிவலம் செய்வதை வழக்கமாக கொண்டவர். எந்தவித கெட்ட குணங்களும் பழக்கங்களையும் கொள்ளாதவர். அப்பகுதியில் பொது தொண்டுகளை செயலாளராக இருந்து செய்து வந்துள்ளார். விசாரணையின் போது விசாரணை செய்த D.R.I அதிகாரிகளால் அடித்து உதைத்து கொடுமை செய்யப்பட்ட காரணத்தினாலும் மேலும் இறக்குமதி செய்து கிடைத்த வருமானத்தை ஒழுங்காக கொடுக்கவும். இல்லை என்றால் அவரது மனைவி கீதாவை இவ்வழக்கில் குற்றவாளியாக சேர்த்து விடுவதாகவும் மேலும் அவரை மொட்டை மாடிக்கு அந்த அலுவலர்கள் கொண்டு சென்று அடித்து உதைத்தாகவும் மனைவி தடுத்தபோது சந்திரசேகர் என்ற அதிகாரி மனைவியை தள்ளிவிட்டு சத்யநாராயணனை எட்டி உதைத்தால் அவர் மொட்டை மாடியிலிருந்து கீழே விழுந்ததாகவும் எங்களை வீட்டிற்கு வந்து தன் கணவரை மருத்துவமனைக்கு கொண்டு செல்ல அவல் மனைவி எங்களிடம் தொலைபேசி மூலம் தெரிவித்தார். நாங்கள் அங்கு சென்றபோது அவர் இரத்த வெள்ளத்தில் இருந்தார். அவரை தனியார்



W.P.No.23868 of 2012

மருத்துவமனைக்கு கொண்டு சென்றோம். அந்த மருத்துவமனையில் KMC க்கு கொண்டு செல்ல கோரினர். கே.எம்.சி மருத்துவமனைக்கு கொண்டு சென்ற போது அங்கு மருத்துவர் பரிசோதித்து அவர் இறந்துவிட்டதாக செய்தி தாங்க முடியாத கொடுமையாலும் மற்றும் அடித்து உதைத்து சித்ரவதை செய்ததாலும் மேலே மொட்டை மாடியிலிருந்து திரு.சந்திரசேகர் என்ற அலுவலர் எட்டி உதைத்ததாலும் கீழே விழுந்து இறந்து விட்டார். திரு.சத்தியநாராயணன் இறந்ததற்கு முழு பொறுப்பு மேற்குறிப்பிட்ட னுகஜி அலுவலர்கள் தான் காரணம் என தனித்தனியாகவும் ஒட்டு மொத்தமாகவும் தெரிவித்துக் கொள்கிறோம்.

/படித்துப்பார்த்தோம் / சொன்னபடி இருந்தது/

1.Sd.,
(DR.ARJUN THOMAS) Age.43/M
S/o. Late Mr.Bala Subramaniam,
286 (B) New Street, Ayyavoo Naidu Colony,
Aminjikarai, Chennai-79.

2.Sd., 23.04.06
(K.Ravanan)

3.Sd., 23/04/06

4.Sd., 23/04/06
R.Babu

5.Sd., 23/04/2006

/என் முன்னிலையில்/

Sd.,
Sub Divisional Magistrate
and District Backward Classes
and Minorities Welfare Officer

59. The statement of the Panchayatdars records the possibility that the petitioners' husband was being harassed by the respondent officials and that



such harassment was what eventually led to his demise. The relevant portion of the report of the Sub-Divisional Magistrate dated 12.12.2006 reads thus:

மேலும் திரு.சத்தியநாராயணனின் தந்தையார் அளித்த வாக்குமூலத்திலும் அடிபட்டுக் கிடந்த திரு.சத்தியநாராயணனை ஆட்டோ டிரைவர் உதவியுடன் அருகிலுள்ள மருத்துவமனைக்கு அழைத்துச் சென்றதாக கூறியுள்ளாரே தவிர அப்போது தனது மருமகள் (திருமதி. கீதா சத்தியநாராயணன்) தனது மகன் அருகில் இருந்ததாக ஏதும் தெரிவிக்கவில்லை. தாயார் தனது வாக்குமூலத்தில் தனது மருமகள் (திருமதி. கீதா சத்தியநாராயணன்) தனது மகன் அருகில் இருந்ததாக ஏதும் தெரிவிக்கவில்லை. எனவே திருமதி. கீதா சத்தியநாராயணன் அளித்த வாக்குமூலத்தினை வேறு சாட்சியங்கள் ஏதும் இல்லாததால் (ரத்த சம்பந்தம் மற்றும் ரத்த சம்பந்தமில்லாத) முழுமையாக ஏற்பதற்கு ஆதாரங்கள் இல்லை. திரு. சத்தியநாராயணன் அடிப்பட்டு இறந்தார் என்பதற்கு சாட்சியங்கள் இருந்தபோதிலும், இவர் இறப்பிற்கு யார் காரணம் என அறுதியிட்டுக் கூற இயலவில்லை. இருப்பினும் வருவாய் புலனாய்வுத் துறை அதிகாரிகள் திரு. சத்தியநாராயணனை சோதனையிட செல்லவில்லை என்றாலும் திரு. சத்தியநாராயணன் வீட்டை சோதனையிட சென்றிருக்கிறார்கள். அவருடைய வீட்டை சோதனையிட எட்டு அலுவலர்கள் ஒன்று சேர்ந்து சர்ச் வாரண்டில் சென்றிருக்கிறார்கள். அவரது வீட்டை சோதனையிடும் போது திரு. சத்திய நாராயணன் முழு ஒத்துழைப்பு அளித்ததாலும், உண்மையை ஒப்புக் கொண்டதாலும், அவர் வீட்டை சோதனையிடும் போதே அவர் வீட்டை விட்டு வெளியே சென்றபோது அவரை பின் தொடரவில்லை என்றும் அவர் முழு சுதந்திரமாக இருந்தார் என்றும் தனிமனித உரிமையை அதிகாரிகளாகிய தாங்கள் கட்டுப்படுத்தவில்லை என்றும் தெரிவித்துள்ளனர். எட்டு வருவாய்த்துறை அதிகாரிகள் திரு. சத்தியநாராயணனின் வீட்டை சோதனையிடும் போது சற்று மேலும் கவனமாக இருந்திருந்தால் ஒரு கோடிக்கு மேல் வரி ஏய்ப்பு செய்தவரின் வீட்டிற்கு சென்று சோதனையிட சென்றவர்கள் இவர்கள் சோதனை முடியும் வரை, இந்த நிகழ்விற்கு மையமான திரு. சத்தியநாராயணனை அவர் வீட்டிற்கு வெளியே தன்னிச்சையாக செல்வதை அனுமதிக்காமல் இருந்திருந்தால், இந்த இறப்பு இவர்கள்



W.P.No.23868 of 2012

வீட்டை சோதனையிடும் போது ஏற்பட்டிருப்பதை தவிர்த்திருக்கலாம். இதன் மூலம் திரு. சத்தியநாராயணனின் வீட்டிற்கு சோதனைக்குச் சென்ற வருவாய்த்துறை புலனாய்வு அதிகாரிகள் (names removed in the interest of brevity as they are figured elsewhere) ஆகிய 8 அலுவலர்கள் ஜாக்கிரதை இல்லாமலும் மேலும் சற்று கவனமாக இருந்து திரு. சத்தியநாராயணனை கண்காணித்திருந்தால் இந்த இறப்பு வீட்டில் சோதனை செய்யும் போது ஏற்பட்டிருக்க வாய்ப்பில்லை என்பதால், திரு. சத்தியநாராயணன் இறப்புக்கு இந்த அளவிற்கு அவர்கள் பொறுப்பாவார்கள் என தெரிவித்துக் கொள்ளப்படுகிறது.

60. In light of the above report forwarded through District Collector and the recommendations of the latter, R4 recommends action against the officers and the communication to the DRI reads thus:

*PUBLIC (LAW & ORDER-E) DEPT.
SECRETARIAT,
CHENNAI-9.*

Letter No.2854/L&O-E/2008-2, Dated 18.02.2009.

*From
Thiru.D.Jothi Jagarajan, I.A.S.,
Secretary to Government.*

*To
The Director,
Directorate of Revenue Intelligence,
D Block, 7th Floor,
Indraprasda Bhavan,
Indraprasda Estate,
New Delhi – 110 002. (w.e)*

*Sir,
Sub: Law and Order – Chennai District – Death of Thiru*



WEB COPY



W.P.No.23868 of 2012

Sathiyarayanan on 22.04.2006 at the time of house search by the officials of Directorate of Revenue Intelligence – Police Standing Order Enquiry conducted – Follow up action – Regarding.

Ref: From the Collector of Chennai district Letter No.A5/23782/2006, dated 2.7.2007.

I am directed to invite attention to the reference cited. (Copy enclosed)

2. On 22.04.2006 a raid was conducted by the Directorate of Revenue Intelligence officials of Chennai Zone Unit at the residence of one Thiru Sathiyarayanan at No.9E, New Street, Ayyavoo Naidu Colony, Aminjikarai, Chennai-29. While conducting the raid the said Thiru Sathiyarayanan fell down from the open terrace of his residence on 22.4.2006 and he was taken to Chennai Kilpauk Medical Hospital for treatment. After examining, the Doctor has declared him as brought dead. In this connection, a case was registered in Cr.No.409/2006 u/s 176 Cr.P.C in the K3, Aminjikarai Police Station and a Magisterial Enquiry by the Sub-Divisional Magistrate and District Backward Classes and Minorities Welfare Officer, Chennai has been conducted as per the provisions of Police Standing Order. The Enquiry Officer has concluded that the death of Thiru Sathiyarayanan was due to mental and physical torture inflicted by the Directorate of Revenue Intelligence officials. A copy of the enquiry report of the Sub-Divisional Magistrate is enclosed for ready reference. The Collector of Chennai District has agreed with the findings of the Sub-Divisional Magistrate and recommended to the Government to initiate Departmental action against the erred Revenue Intelligence officials.

3. The Government, after careful examination of the enquiry report and the recommendation of the Collector of Chennai, have agreed with the findings of the enquiry officer that guidelines and procedure while conducting raid at the premises of the deceased have not been scrupulously followed by the Directorate of Revenue Intelligence Officials and hence they were responsible for contributory negligence in the death of the deceased. Accordingly



W.P.No.23868 of 2012

the Government is of the view that severe departmental action may be initiated against the following Directorate of Revenue Intelligence Officials who were part of the team who conducted raid at the residence of the deceased Sathiyannarayanan.

1. *Tv.R.Arun Singh (Senior Vigilance Officer)*
2. *Susan Vargese (Senior Vigilance Officer)*
3. *Nalini Rajan (Intelligence Officer)*
4. *Sukumar suresh (Intelligence Officer)*
5. *Ramakrishnan (Intelligence Officer)*
6. *Girish (Intelligence Officer)*
7. *Chandrasekar (Intelligence Officer)*
8. *Ram (Intelligence Officer)*

4.I am therefore, directed to request that departmental action against the above mentioned erred officials of the Directorate of Revenue Intelligence, Chennai Zone Unit may be taken as per the decision of the Government and to intimate the result of the departmental action to the Government early.

5. The receipt of the letter may kindly be acknowledged.

Yours faithfully,

*for Secretary to Government
T.Joseph Besky,
Section Officer.*

*Copy to
The District Collector,
Chennai District.*

61. The conclusions of the Panchayatdhars and the sub-divisional Magistrate are to the effect that the officials had harassed the petitioners husband. Based on these reports, R4 has attributed contributory negligence on the part of the officers in connection with the demise of the petitioner's



husband. He goes one step ahead, also stating that the officers had not followed proper procedure and guidelines while conducting the raid in the premises in question.

62. It is entirely possible and probable that the officers would have been rough in their approach to the petitioner's husband in the course of the search proceedings. However, which such an approach is to be deprecated, there is nothing to indicate that the guidelines for conduct of searches has been breached in any way or that the officers had resorted to violence or physical abuse.

63. The stipulations for issuance of warrant, summons, panchas and the maintenance of documents in this regard, to the extent to which they have been furnished before the Court, do not indicate any omission or irregularity and none have been pointed out by the petitioner as well. There is no basis for the observation in the proceedings of the R4 dated 18.02.2009 that proper procedure and guidelines have not been followed.

64. This Court has, in the discussion, preceding this conclusion noted various inconsistencies in the statement of the petitioner. It thus falls outside of the realm of this Court, sitting in writ jurisdiction, to render an unequivocal and categorical finding in the affirmative, in regard to the cause of death of the



petitioner's husband. This would have been an appropriate matter for the attention of the civil Courts with necessary infrastructure to conduct an in-depth enquiry into evidences including examination of witnesses. The submissions of the petitioner on this score are thus rejected.

65. The issues that arise for the Court's consideration are:

- (i) Whether the Writ Petition is at all maintainable in light of the alleged sequence of events relating to the filing of the Criminal Original Petition and withdrawal thereof by this petitioner.
- (ii) Whether illegal custody of her husband in the hands of the customs officials, has been established by the petitioner.
- (iii) Whether death of her husband in the hands of the customs officials, has been established by the petitioner.
- (iv) Whether the petitioner is entitled to compensation of a sum of Rs.50.00 lakhs or any compensation at all.
- (v) Whether there should be any direction to the Customs Department to take suitable action as against the officers referred to in recommendations of R4 under letter dated 18.02.2009.

66. The first issue has been decided by me after a detailed discussion at paragraphs 33 to 45. The second and third issues of alleged illegal custody and



death of the petitioner's husband in the hands of the petitioner's husband have been discussed and answered at paragraphs 48 to 51 and 53 to 64 above respectively, adverse to the petitioner.

67. The third issue relates to the prayer for compensation. In *Sube Singh v. State of Haryana and others*¹, the Court touched upon the payment of compensation as a public law remedy for violation of fundamental rights. However, they concluded, based on the facts before them, that there was no clear or incontrovertible evidences in regard to the allegation of custodial torture in that case.

68. They held that where there is no independent witness of such torture or illegal custody, then, the Courts must not be persuaded to intervene in such cases. In paragraph 45, their observations are:

'45.Cases where violation of Article 21 involving custodial death or torture is established or is incontrovertible stand on a different footing when compared to cases where such violation is doubtful or not established. Where there is no independent evidence of custodial torture and where there is neither medical evidence about any injury or disability, resulting from custodial torture, nor any mark/scar, it may not be prudent to accept claims of human rights violation, by persons having criminal records in a routine manner for awarding compensation. That may open the floodgates for false claims, either to mulct money from the State or as to prevent or thwart further investigation. The courts should, therefore, while zealously

¹ [(2006) 3 SCC 178]



WEB COPY

protecting the fundamental rights of those who are illegally detained or subjected to custodial violence, should also stand guard against false, motivated and frivolous claims in the interests of the society and to enable the police to discharge their duties fearlessly and effectively. While custodial torture is not infrequent, it should be borne in mind that every arrest and detention does not lead to custodial torture.'

69. No medical report of any injury or disability was produced in that case. The grievance of the petitioner and his relatives were targeting different officers in different Stations at different point in time and importantly were found to be exaggerated and false. For those reasons, the claim for compensation was rejected.

70. There is thus, a primary requirement for the petitioner, in seeking mandamus for compensation, to premise the prayer on facts that are categorical and clear. No doubt, disputes will be raised by the respondents in regard to the version of events, as put forth by the petitioners. However, it is for the Courts to reconcile such differences and in doing so, the Court must be left with the impression that the claim of the petitioner is a genuine one, uncoloured by any inconsistencies or contradictions.

71. The death of the petitioner's husband is a fact that has been established and which is denied by none of the parties before me. The fact is that the petitioner's husband did fall to his death from the terrace of the



W.P.No.23868 of 2012

premises in question. However, there is nothing to clinch the petitioner's version of events and conclusively conclude that his death was caused, or can be attributed, to the respondents.

72. Even in such circumstances, this Court may have been persuaded to grant some measure of the benefit of doubt to the petitioner IF her narration of events had been found credible, but this is found wanting and has not inspired this Court to invoke its extraordinary jurisdiction to award compensation.

73. The reliance of the petitioner on the decision in *K.Kabali @ Kabalesswaran v. State of Tamil Nadu, rep. by its Secretary to Government, Home Department, Fort St. George, Chennai 600 009 and others*², is of no assistance to the petitioner as the facts in that case had found acceptance by the Court in accepting that petitioner's prayer. The situation is not in parimateria in this case.

74. This Writ Petition is dismissed as is the connected miscellaneous petition. However, there will be no order as to costs.

21.06.2023

Index : Yes
Speaking Order
Neutral citation : Yes
SI

² [2006-3-L.W.81]



W.P.No.23868 of 2012

To
WEB COPY

- 1.The Union of India,
Rep by its Secretary to Government,
Department of Revenue & Intelligence,
New Delhi.
- 2.The Director,
Directorate of Revenue Intelligence,
Ministry of Finance (Department of Revenue)
Government of India,
7th Floor, D-Block,
Indraprasatha Bhawan,
Indraprasatha Estate,
New Delhi.
- 3.Senior Intelligence Officer,
Ministry of Finance (Department of Revenue)
O/o, Director of Revenue Intelligence,
No.25, Gopala Krishna (Iyer) Road
T.Nagar, Chennai-600 017.
- 4.The Government of Tamilnadu
Rep by Secretary to Government,
Public (Law & order-E) Department,
Secretariat, Chennai-9.



WEB COPY



W.P.No.23868 of 2012

DR.ANITA SUMANTH, J.

Sl

WP.No.23868 of 2012 and
MP.No.1 of 2013

21.06.2023