



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-07-2026

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**THE HONOURABLE DR JUSTICE G. JAYACHANDRAN
AND
THE HONOURABLE MRS.JUSTICE N. MALA**

W.P.No.41791 of 2006

Abdul Sathar,
S/o Gulam Khader,
Pakkiripalayam Village,
Chengam Taluk,
Tiruvannamalai District.

Petitioner

Vs

1.The Principal Secretary to Government,
Home Department,
Fort St. George,
Chennai 600 009.

2.The Secretary to Government,
Public Department,
Fort St. George,
Chennai 600 009.

3.The State Human Right Commission,
Rep. By its Acting Chairperson,
Greenways Road, Chennai 600 028.

4.Poovarasu
W/o Poongan (late),
Mariyamman Koil Sreet,
Perumanam Village 606 806,
Tiruvannamalai Taluk, District.

5.The Registrar
National Human Rights Commission, GPO Complex,
Manav Adhikar Bhawan, C-Block,
INA New Delhi-110023.



6.The Secretary to Govt.,
Union of India,
Ministry of Social Justice, Shastri Bhawan,
C-Wing, Dr.Rajendra Prasad Road, New Delhi-110 011.

7.The Home Secretary,
Union of India,
Ministry of Home Affairs,
North Block, New Delhi-110 001.

R5 TO R7-IMPLEADED AS PER COURT ORDER
DT.26.06.2019 MADE IN W.M.P.No.17549/2019 IN
W.P.No.41791/2006 BY T.S.S.J, V.B.S.J, M.D.I.J,

Respondents

PRAYER

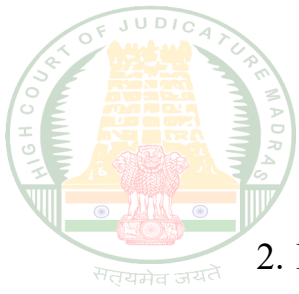
Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the recommendation made in SHRC Case No. 7347 of 2004 dated 3.8.2006 on the file of the 3rd respondent and quash the same

For Petitioner	M/s.S.Kumara Devan
For Respondent(s):	Mr.B.Vijay as Amicus Curie Mr.B.Sivakollapan, GA for R1 and R2 Mr.S.Wilson, for R3 M/s.Dr.G.Kirusnamurthy for R4 Mr.M.P.Jaisha, CGSC for R5 to R7

ORDER

(Order of the Court was made by G.Jayachandran, J.)

The writ petitioner herein, while serving as a Police Head Constable attached to “Veraiyur Police Station” in Thiruvannamalai District is alleged to have caused physical injuries to one Poongan, who was brought to the police station in connection with the case registered for riot and other offences.



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2. It appears that the said Poongan had got treatment for his injury at the hands of one Dr.Kartheesan(PW-6) immediately and after treatment, the said Poongan was discharged on 12.07.2004. The injuries on the person Poongan has noticed and deposed by Dr.Kartheesan (PW-6) before the Human Rights Commission, which are as below:-

- (1)Punctured wound over the shin of right leg.
- (2)Contusion 3x2x2cm over the left fore arm
- (3)Diffuse pain over the back
- (4)Diffuse pain over the face
- (5)contusion 5x1x1cm over the left leg.

3. The said Poongan, two months later, complained of pain and got admitted in JIPMER Hospital, Puducherry on 11.09.2004. However, he died in the hospital on 14.09.2004. Alleging that his death was attributable to the injury caused to Poongan, the public of Perumanam Village staged a protest by road roko. Hence, the police has thought it fit to have the post-mortem conducted by a team of Doctors. Accordingly, PW-5 and PW-6 have conducted the post-mortem and given a post-mortem certificate. Thereafter, the matter was taken by the Human Rights Commission on the complaint given by the wife of the deceased, Poongan. The Human Rights Commission had ordered investigation report by the D.S.P., S.P., and ADGP and the same was taken cognizance by the



Human Rights Commission.

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4. After examining the witnesses, the Human Rights Commission passed the following recommendations:-

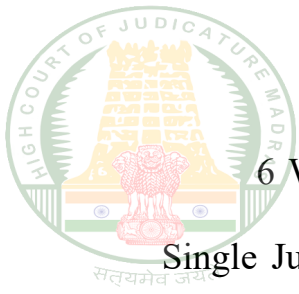
Recommendation

“1.For the human rights violation committed by R.1 Abdul Sathar, H.C.301, he is liable to compensate a sum of Rs.50,000/- (Rupees Fifty Thousand only) to the complainant Poovarasu and her minor children and the Government of Tamil Nadu is directed to pay the compensation at the first instance and to recover the same from out of the salary to be paid to respondent 1.

2.Out of the said sum of Rs.50,000/- shall be paid to the complainant Poovarasu, wife of Poongan, the deceased and Rs.15,000/- each in the name of the two female children be kept in fixed deposit in a nationalised bank and Poovarasu, the mother of the two children, is entitled to draw the interest towards their maintenance and education till they attain majority.

3.Respondent No.2 Karunakaran, H.C.804 is not liable.”

5. Being aggrieved by the recommendations to recover the compensation of Rs.50,000/- from the writ petitioner, W.P.No.41791 of 2006 has been filed before this Court by invoking Article 226 of the Constitution of India.

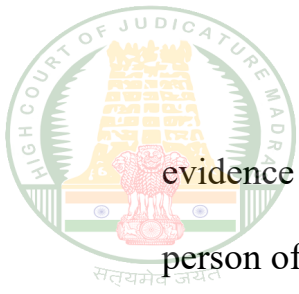


6 When the matter came up for consideration earlier before the learned Single Judge, the learned Single Judge had his own reservation regarding the maintainability of the writ petition as against the recommendations of the Human Rights Commission. Accordingly, the matter was referred to a Larger Bench of this Court. By the time, a batch of writ petitions challenging the order of the Human Rights Commission, came up before this Court including the present writ petition in W.P.No.41791 of 2006 filed under Article 226 of the Constitution of India and were tagged together.

7. The Three-Judges Bench of this Court, vide, order dated 05.02.2021 answered the terms of reference to the effect that the recommendations of the Human Rights Commission enforceable and any person aggrieved can approach the High Court under Article 226 of the Constitution of India. It was further held that such writ petitions shall be decided by a Division Bench of this Court. As a result, this case which was filed 21 years ago has now been taken up for consideration by this Bench.

8. The facts involved in this matter are narrated above in nutshell:-

The writ petitioner contends that he is not responsible for the death of Poongan. Even according to the post-mortem report, he died due to “Viral Encephalitis”, the Human Rights Commissioner has held that the writ petitioner is responsible for causing simple injury to Poongan. However, there is no

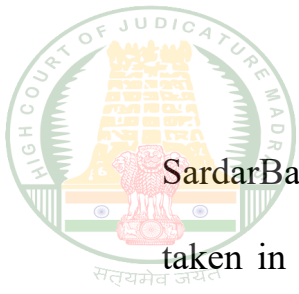


evidence to show that the injuries observed by Dr.Kartheesan[PW-6] on the person of Poongan were caused by the writ petitioner, particularly, when the key witness did not turn up for cross examination, despite payment of batta.

9. The learned counsel appearing for the writ petitioner submitted that while Dr.Kartheesan[PW-6], who had seen the injury at the first instance, had certified that the injuries were simple in nature and therefore there cannot be any adverse finding against the writ petitioner for any Human Rights violation and even for the said simple injuries, there is no direct evidence or acceptable evidence implicating the petitioner.

10. According to the learned counsel, the conclusion of the Human Rights Commission fixing the writ petitioner for causing injury and exonerating the other Police Head Constable by name Mr.K.Karunakaran, who was actually on duty is discriminatory in nature, more particularly, when there is no evidence to fix the person ,who actually caused the said simple injury. The Human Rights Commission, while rightly eschewed the evidence of PW-7, PW-8, PW-9 and PW-10, as self-serving, ought not to have arrived at the conclusion that the injury noticed by Dr.Kartheesan (PW-6)was caused by the petitioner.

11. This Court, after examining the grounds of appeal in the light of deposition of PW-4(Mr.Venkatesh), who identified the petitioner herein as



Sardar Bai, the person who was present in the Police Station, when Poongan was taken in to custody, had not turned up for cross examination to confront him about his assertion and identification. On that score, we hold that the statement of PW-4 who was not subjected to cross examination, cannot be taken as a gospel truth to fix the writ petitioner for the alleged violation of human rights. The evidence of PW-3 [Ms.Rani] is in the nature of hearsay. Therefore, even her evidence is not adequate for justifying the conclusion arrived at by the Human Rights Commission, we are constrained to interfere with the order of the Human Rights Commission, dated 03.08.2006 in SHRC No.7347 of 2004 to the extent of fixing liability on the writ petitioner for causing injury found on him, as noticed under Ex.P3 issued by Dr.Kartheesan (PW-6). Therefore, this writ petition stands allowed. However, if any compensation is paid to the victim, there shall be no recovery of the same. If any service benefits is withheld, in view of the pendency of the writ petition, the authorities are directed to release the service benefits to the extent to which the petitioner or his family members are entitled. There shall be no order as to costs.

(G.JAYACHANDRAN, J.)

(N.MALA, J.)

14-07-2026

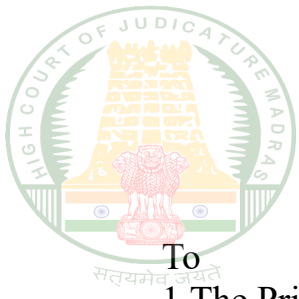
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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W.P.No.41791 of 2



**Dr.G.JAYACHANDRAN, J.
AND
N.MALA, J.**

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