

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2016

CORAM:

THE HONOURABLE MS.JUSTICE R.MALA

W.P.No.5765 of 2016

D.Arun

... Petitioner

Vs.

1) P.Subramani

2) Inspector of Police,  
Latheri Police Station,  
Latheri, Vellore District.  
(Crime No.257/2004)

... Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing both the respondent no.1 & 2, jointly and severably to pay compensation of amount of Rupees Two Hundreds and Seventy Crores @ the rate of 5% percentage interest per month till the date of order of the case to the petitioner for the losses occurred from 27.09.2004 dated to 02.07.2015 dated by both the respondents no.1 and 2, for filling of false drama case on the petitioner and with willfully violation of Human Rights to the petitioner by the respondents no.2 to the petitioner.

For Petitioner : Mr.D.Arun

Party - in - Person

For Respondents: Mr.P.Sanjay Gandhi

Additional Government Pleader

Heard.

ORDER

2.The petitioner has come forward with this petition seeking a Mandamus to pay compensation of amount of Rupees Two Hundred and Seventy Crores with interest at the rate of 5% percent per month till the date of order of the case to the petitioner for the losses occurred from 27.09.2004 to 02.07.2015 stating that he was prosecuted for the offence punishable under Sections 294 (b), 323 and 325 of IPC along with his father on the basis of the complaint given by one Subramani and after due investigation, case has been registered and final report has

been filed, which was taken on file as C.C.No.7 of 2005 in which, on 20.01.2006, he was found guilty for the offence punishable under Sections 294(b), 323 and 325 IPC along with his father but, by invoking the provisions under Section 4(1)(3) of the Probation of Offenders Act, he was released against which, he preferred Crl.A.No.155 of 2008 on the file of the learned Additional District and Sessions Judge, Fast Track, Vellore, which confirmed that order, against which, he preferred Crl.R.C.No.284 of 2009 and on 11.08.2010 that conviction has been set aside and the case has been remanded back to the Trial Court for fresh trial for recalling prosecution witness and cross-examination of the witnesses.

3.In pursuance of the same, the Trial Court took the matter afresh in C.C.No.162 of 2010 and after considering the submissions on 27.08.2013, the first accused/ petitioner was found guilty under Sections 294(b) and 325 of IPC and sentenced him to pay a fine of Rs.500/- in default to undergo three weeks RI for the offence punishable under Section 294(b) of IPC and to undergo one year RI and to pay a fine of Rs.1000/- in default to undergo four months RI for the offence punishable under Section 325 of IPC and was acquitted from the charge under Section 323 of IPC and the second accused/ the petitioner's father was acquitted from the charges against him and against that order, the petitioner filed Crl.A.No.80 of 2013, in which, on 11.12.2012, the learned Principal District and Sessions Judge, Vellore set aside the conviction and sentence awarded against the petitioner and remanded back the matter to the Trial Court for afresh disposal.

4.In pursuance of the same, the Trial Court took the matter afresh in C.C.No.31 of 2014 and after considering the submissions on 27.02.2014, the first accused/ petitioner was found guilty under Sections 294(b) and 325 of IPC and sentenced him to pay a fine of Rs.500/- in default to undergo three weeks SI for the offence punishable under Section 294(b) of IPC and to undergo one year RI and to pay a fine of Rs.1000/- in default to undergo three months SI for the offence punishable under Section 325 of IPC and was acquitted from the charge under Section 323 of IPC and in respect of the second accused/ the petitioner's father the judgment rendered in C.C.No.162 of 2010 was continued and as against the same, the petitioner filed Crl.A.No.17 of 2014 in which, on 02.07.2015 he was acquitted from the charges and now he has come forward with this petition stating that his arrest is illegal and the dictum laid down in D.K.Basu Vs. State of West Bengal reported in AIR (1997) SC 610 has not been followed. Hence, he is entitled to compensation.

5.The matter was posted 'for maintainability'. The petitioner relied upon the dictum laid down in D.K.Basu Vs. State of West Bengal reported in AIR (1997) SC 610 and also the

judgment of this Court in W.P.No.15794 of 2003 (S.Anand Vs. The State of Tamil Nadu Represented by its Secretary to Government and four others) and also the judgment of the Kerala High Court in W.P.No.24902 of 2014 (Shyam Balakrishnan Vs. State of Kerala).

6.It is pertinent to note that in respect of not following the dictum laid down in D.K.Basu Vs. State of West Bengal reported in AIR (1997) SC 610, he was arrested even in the year 2003, he was charge sheeted, he was facing criminal charges, he was given the benefit of doubt and acquitted by the Appellate Court. In such circumstances, he has now come forward before this Court canvassing that the dictum laid down in D.K.Basu Vs. State of West Bengal reported in AIR (1997) SC 610 was not followed, but he has not agitated the same in the year 2004.

7.Further, he relied upon the decision of this Court in W.P.No.15794 of 2003 (S.Anand Vs. The State of Tamil Nadu Represented by its Secretary to Government and four others), but this citation is not applicable to the facts of the present case, because there, the victim suffered torture, bodily injury by the police people, hence he approached the Court for compensation where compensation has been awarded. Likewise in the decision of the Kerala High Court in W.P.No.24902 of 2014 (Shyam Balakrishnan Vs. State of Kerala) also, the petitioner therein was wrongly detained in jail as if he is an accused in Maoist and subsequently, he was released stating that he was wrongly arrested and hence, compensation was awarded.

8.Merely because the petitioner was acquitted from the charges leveled against him in the appeal, giving the benefit of doubt in his favour, he is not entitled to claim any compensation from the Government. Hence, this petition is not maintainable and it is dismissed as not maintainable. No costs.

Sd/-  
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,  
Latheri Police Station,  
Latheri, Vellore District.  
(Crime No.257/2004)

+1 cc to Government Pleader, sr.14304  
+1 cc to Mr.D.Arun, Advocate, sr.14030

W.P.No.5765 of 2016

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kra 14.03.2016