



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2016

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

W.P.(MD) No.3824 of 2016

V.Poonkodi

... Petitioner

-vs-

1. The Secretary to Government,
Home Department,
Union of Government of India,
New Delhi.
2. The Secretary to Government,
Home Department,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai-9.
3. The Deputy Superintendent of Police,
CBI/SCB/Chennai,
"A" Wing III Floor, Rajaji Bhavan,
Besant Nagar, Chennai-90.
Camp at:Madurai CBI Office,
District Court Complex, Madurai.
In Cr.No.RC8(S)/2014/CBI/SCB/Chennai.
4. The Inspector of Police,
Tallakulam Police Station,
Madurai City.
(In Cr.NO.901 of 2014).

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing the first and second respondents to pay a sum of Rs.10,00,000/- each as adequate compensation to the petitioner for the illegal custody, physical torture and mental agony sustained by her based on the petitioner's detailed representation dated 13.08.2015 within a period of stipulated time as fixed by this Court.

For Petitioner : Mr.A.Prasanna Rajadurai
For Respondents : Mr.D.Muruganandam,
Addl. Govt. Pleader

ORDER

This writ petition has been filed, seeking a direction to the first and second respondents to pay a sum of Rs.10,00,000/- each as adequate compensation to the petitioner for the illegal custody, physical torture



and mental agony sustained by her based on the petitioner's detailed representation dated 13.08.2015 within a period of stipulated time as fixed by this Court.

2. Heard the learned Counsel for the petitioner and the learned Additional Government Pleader who takes notice for the respondents.

3. It is seen that the petitioner is an accused in Cr.No.901 of 2014 for the alleged offences 364(A) I.P.C. @ 302 I.P.C. @ 147, 148, 120(b), 302 I.P.C. It is seen that The Inspector of Police, D.1, Tallakulam Police Station registered a case in Cr.No.901 of 2014 for man missing which was altered into for offence under Section 302 I.P.C. and this petitioner was arrested on 05.09.2014 and remanded to judicial custody on 06.09.2016. Thereafter on the intervention of this Court, this case has been transferred to the file of CBI for proper investigation by order dated 20.10.2014 in CrI.O.P.(MD)No.17168 of 2014.

4. It is alleged by the petitioner that he would have been entitled to be released under the provisions of 167(2) Cr.P.C., but whereas by misappropriation of facts and law, she was detained beyond the statutory period prescribed under Section 167(2) Cr.P.C. In support of his contention, the learned Counsel relied upon the contentions made by the learned Counsel for CBI in CrI.O.P.(MD)No.23527 of 2014 which reads as follows:

"3.Mr.G.R.Swaminathan, learned Standing Counsel appearing for CBI, in his usual fairness, would concede that the order passed is unsustainable on the reason that once the time limits starts to run from the date of arrest of the accused, it will not stop and simply because the investigation has been transferred to CBI, fresh period under Section 167(2) of Cr.P.C., does not commence."

4. Any event, it is the contention of the petitioner that she was in illegal custody and therefore, a Writ of Mandamus could be issued for compensation.

5. In the considered opinion of this Court, the case against the petitioner is still under investigation by the CBI. A Writ of Mandamus asking for compensation at this juncture is pre-mature, especially when there are disputed questions of fact. It is always open to the petitioner to approach the civil Court, if so advised.

With the above observations, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar



To

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(In Cr.NO.901 of 2014).

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR NO. 11284
+ 1 CC TO MR.A.PRASANNA RAJADURAI, ADVOCATE IN SR NO. 10959

SSL

TE/NGM-SS/ : 08/03/2016 : 3P/7C

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