

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.12.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Appeal Nos.518 to 521 of 2012

M.Vijayan	..	Appellant in W.A.No.518/12
Mathaiyan	..	Appellant in W.A.No.519/12
Shivaji	..	Appellant in W.A.No.520/12
A.Thangaraj	..	Appellant in W.A.No.521/12
Vs.		
The Secretary to Government Home (Police II) Department Fort St. George Chennai 9.	..	Respondent

Prayer: Writ Appeals filed under Clause 15 of the Letters Patent filed against the common order dated 06.6.2011 made in W.P.Nos.26611, 26612, 26613 & 26952 of 2007 respectively.

Prayer in WP.NOs.26611, 26612, 26613 & 26952 of 2007:Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the respondent in connection with the impugned order issued in G.O.(2D).9 Home(Pol.II) department dated 07.01.2004 and G.O.(2D) no.187 home (pol. V) dated 26.03.2007 (WP.26611 of 2007) G.O.(2D) 7 home (pol. II) Department dated 07.01.2004 and G.O.(2D) No.188 Home, (Pol.V) dated 26.3.2007 (WP.26612 of 2007) G.O.(2D) 8 Home (Police II) Department dated 7.1.2004 and G.O.(2CD) 189 Home (Pol.V) dated 26.3.2007 (WP.No.26613 of 2007) G.O.(2D) 10 Home (Pol.II) Department dated 7.1.2004 and G.O.(2D) No.186 Home (Pol.V) dated 26.3.2007 (WP.No.26952 of 2007)and quash the same.

For Appellants : Mr.L.Chandrakumar
For Mr.M.Muthappan
For Respondents : Mr.P.S.Sivashanmugasundaram
Spl. Govt. Pleader

J U D G M E N T
(Delivered by Huluvadi G.Ramesh,J)

The writ appeals are directed against the common order dated 06.6.2011 made in W.P.Nos.26611, 26612, 26613 & 26952 of 2007 respectively.

2. The facts of the case which led to the filing of the above appeals are as under:

The appellants, who are Head Constable and Grade I Police Constables, while working in Counterfeit Currency Wing during the year 1997, under the team headed by Deputy Superintendent of Police, Kuppusamy, and Inspectors of Police by name E.A.K.Sivaraman and S.Bhakiyaraj, arrested an accused by name Sukumaran. It appears that they had used minimum force on the accused as he attempted to escape, due to which, he sustained injuries. Thereafter, the accused was taken into police custody. During interrogation, he sustained head injuries in view of the force used and he succumbed to injuries on the way to hospital.

3. An inquiry was conducted by the Personal Assistant to the Collector of Chennai and report was also submitted. Though initially the Deputy Superintendent of Police and the Inspectors of Police were placed under suspension immediately, the Director General of Police was directed to take departmental action against all the police personnel, including the appellants, by the Government, in view of the report that the accused was tortured due to which he sustained injuries and succumbed to the injuries. Consequently, charge memo was issued, inquiry was conducted and all the charges were held proved against all the officers and accordingly, after receipt of further representation of the appellants on the inquiry report, the Government imposed the punishment of stoppage of increment for three years with cumulative effect.

4. The appellants filed writ petitions challenging the order of punishment. However, finding no reason to interfere with the punishment imposed, the learned single Judge dismissed the writ petitions. Hence, the above appeals.

5. Heard the learned counsel appearing for the appellants and the learned Special Government Pleader appearing for the respondent.

6. The punishment imposed on the appellants was assailed by them on the ground that the said punishment is too harsh and that there was no uniformity in the imposition of punishment.

7. Admittedly, the team which arrested the accused was led by the Inspectors of Police and based on the enquiry report submitted by the P.A. to the Collector, only the Deputy Superintendent of Police and the Inspectors were suspended immediately. Thereafter, based on the additional statement made by the wife of the accused, the appellants were implicated, though she had earlier stated that her husband was not tortured by the police officials during the custody. But, according to the appellants, the Inspectors were the authority, under whose directions, they acted and therefore, there being no vital role on their part, in the death of the accused, they should have been given lesser punishment than the one imposed on them and that imposition of lesser punishment on the Inspector of Police is arbitrary.

8. It is, therefore, necessary to have a look at the punishment imposed on the appellants and others. Accordingly, it is extracted as under:

Sl. No.	Name of the delinquent and PR No.	Nature of punishment awarded
1	Thiru N.Kuppusamy Superintendent of Police PR No.7/99	Stoppage of increment for one year with cumulative effect - G.O.(2D) No.499, Home (Pol.2) Department dated 28.9.2004
2	Thiru E.A.K.Sivaraman Deputy Superintendent of Police formerly Inspector PR No.8/99	Pension cut of Rs.500/- p.m. for 3 years
3	Thiru S.Packiyaraj Inspector of Police PR No.9/99	Orders not yet issued

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Sl. No.	Name of the delinquent and PR No.	Nature of punishment awarded
4	Thiru K.Sasikumar Police Constable 11326	PR No.10 to 15/99. Stoppage of increment for 3 years with cumulative effect vide G.O.(2D) No.6 to 11, Home (Pol. 2) Department, dated 07.01.2004
5	Thiru A.Thangaraj, Grade I Police Constable 2045	
6	Thiru S.Mathaiyan Grade I Police Constable 6509	
7	Thiru D.Mohan Temporary SI, formerly HC 2083	
8	Thiru E.Sivaji Grade I Police Constable 10110	
9	Thiru M.Vijayan Head Constable 12232	

9. A perusal of the above and also the enquiry report, it appears that the appellants and others have been found guilty. However, only after taking note of their involvement, different punishments had been imposed on the appellants and others. Though the appellants contend that they acted only on the direction of the Inspector and therefore, the punishment imposed on them has to be modified by imposing lesser punishment like that of the one imposed on the Inspector, we are of the considered view that such imposition of punishment by the disciplinary authority, having regard to the nature of the overt act and also the post mortem report, does not inspire the confidence of this Court to propose any other lesser punishment.

10. In view of the above, these appeals are dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(co)

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Sub Assistant Registrar

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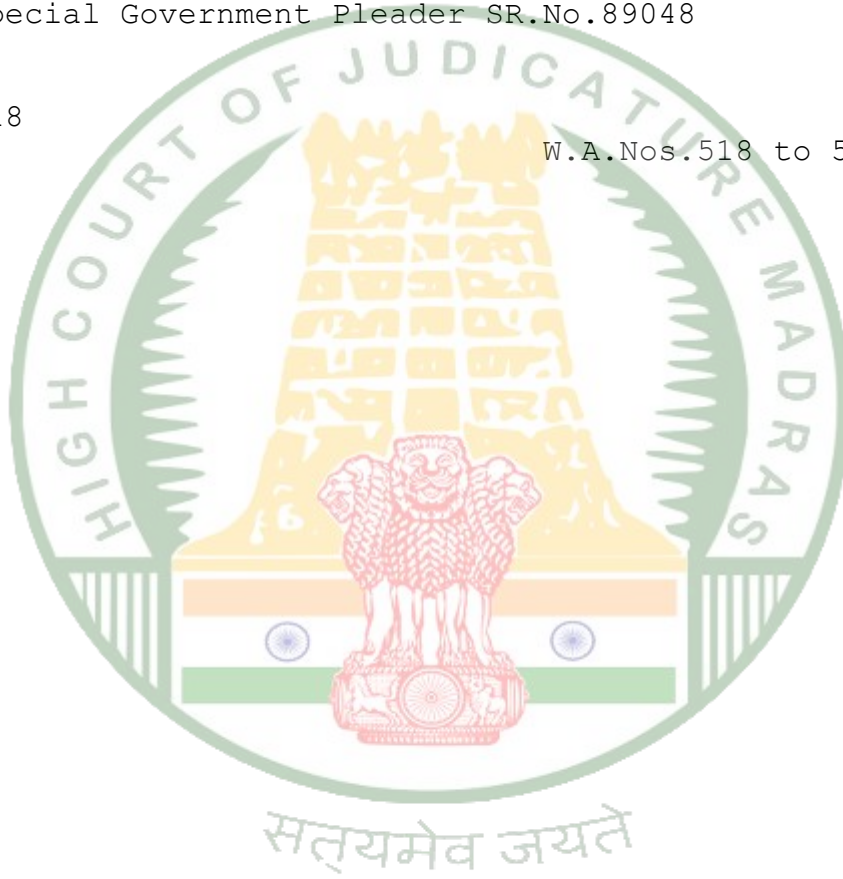
To

The Secretary to Government
Home (Police II) Department
Fort St. George
Chennai 9

+4cc to Mr.T.Ayngaraprabhu, Advocate Sr.No.89119
+1cc to Special Government Pleader SR.No.89048

MR(CO)
sm:6.2.2018

W.A.Nos.518 to 521 of 2012.



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