

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.12.2017
CORAM
THE HONOURABLE MR. JUSTICE R. SURESH KUMAR
W.P.No.25175 of 2003

M.Sundarammal

... Petitioner

Vs.

1. The State represented by
The Secretary,
Home Department,
Fort St. George,
Chennai - 600 009.

2. Ms.Tamilarasi,
Sub-Inspector of Police,
Thirunagar,
now working at
Samayanallur Police Station,
Madurai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, to direct the respondent to pay a compensation of Rs.3,00,000/- for the inhuman crime committed by the 2nd respondent herein against the petitioner leads to the removal of her uterus and thereby sealed the happy atmosphere to have a normal family life with her husband.

For Petitioner : Mr.G.Purushothaman

For Respondents : Mr.M.Elumalai (for R1)
Government Advocate
Mr.R.Saravana Kumar (for R2)

ORDER

The prayer sought for in this Writ Petition is for a Writ of Mandamus, directing the respondents to pay a compensation of Rs.3,00,000/- for the inhuman act committed by the 2nd respondent against the petitioner leads to the removal of her uterus and thereby sealed the happy atmosphere to have a normal life with her husband.

2.I have heard Mr.G.Purushothaman, learned counsel appearing for the petitioner and Mr.R.Saravana Kumar, learned counsel appearing for the 2nd respondent and Mr.M.Elumalai, learned Government Advocate appearing for the 1st respondent.

3.The prayer sought for in this Writ Petition is for a Writ of Mandamus to seek a lump sum compensation for the alleged inhuman act said to have been committed by the 2nd respondent.

4.It is urged by the learned counsel appearing for the petitioner that, only because of the inhuman act by which without any provocation on 12.06.2002, the 2nd respondent kicked the petitioner in the abdomen with her boots leg in the presence of her husband and her father and there was a profuse bleeding from the uterus, with the result, she was hospitalized and she had been taking treatment as inpatient. It is further urged by the learned counsel appearing for the petitioner that because of the said action, the petitioner had to remove her uterus as per medical advise. Therefore, such an inhuman act committed by the 2nd respondent/Sub Inspector of Police, while she was working, the 2nd respondent has to pay the compensation and the 1st respondent being the State, who is the employer of the 2nd respondent, the 1st respondent also has to pay the compensation jointly with the 2nd respondent, as the 1st respondent is vicariously liable to pay such compensation.

5.However, the learned Government Advocate appearing for the State would submit that absolutely, there is no iota of evidence that the 2nd respondent has made any such inhuman act, as alleged by the petitioner and moreover, when there is no proof to show that the 2nd respondent had involved in any such act, the question of grant of any compensation as has been claimed by the petitioner, does not arise.

6.The learned counsel appearing for the 2nd respondent also makes a similar submission that the 2nd respondent has never indulged in any such act, as has been alleged by the petitioner and therefore, the claim made by the petitioner in this Writ Petition is without any substance and therefore, it has to be rejected.

7.I have heard the learned counsel appearing for both sides.

8.At the outset, since the prayer as claimed is for the Mandamus to pay compensation for the alleged inhuman act, unless it is proved beyond any reasonable doubt before any legal Forum that because of the criminal act inflicted on the petitioner by the 2nd respondent, while she was on duty, the petitioner had to undergo a surgery for removal of uterus, the prayer made in this Writ Petition for grant of compensation, cannot be granted by any Forum. Moreover, this Court, exercising extraordinary jurisdiction under Article 226 of the Constitution of India, cannot go into the dispute, as on oath, both the parties claimed contra to each other and those issues cannot be resolved by this Court under Article 226 of the Constitution of India.

9. Moreover, unless the alleged inhuman act is proved, this Court cannot come to the conclusion as to whether the petitioner would be entitled to seek for compensation and also the quantum to be paid. When these facts are not the matters to be decided by any other Forum where the petitioner has not admittedly approached, this Court is of the view that the said issue cannot be resolved at this stage by interfering under Article 226 of the Constitution of India. The prayer sought for by the petitioner cannot be granted. Hence, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mps

To

The Secretary,
Home Department,
Fort St. George,
Chennai - 600 009.

+1 cc to M/s.G.Purushothaman Advocate sr 90954
+1 cc to M/s.R.Saravanabuman Advocate sr 91075
+1 cc to the Govt Pleader sr 91433

W.P.No.25175 of 2003

aa23/01/2018

सत्यमेव जयते

WEB COPY