



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.36 of 2014 and M.P.No.1 of 2014

1. The Government of Tamil Nadu
rep. by the Secretary,
Department of Home, Fort St. George,
Chennai - 600 009.
 2. The Deputy Superintendent of Police,
Villupuram.
 3. The Sub Inspector of Police,
Thiruvannainallur Police Station,
Villupuram District. ... Appellants
- Vs.
- Banumathy ... Respondent

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order dated 19.03.2013 made in W.P.No.30376 of 2002.

WP.No.30376/2002:WP is filed under Article 226 of the Constitution of India for the issuance of a writ of mandamus, directing to respondents to pay a compensation of Rs.10,00,000/- (Rupees Ten lakhs only) to the petitioner which suitable interest and prosecute and take suitable disciplinary action against the police personnel and persons responsible for the death of the petitioner's husband Mr.Ganapathy.

For Appellants : Mr.V.Anandamoorthy, AGP
For Respondent : Notice Served - No Appearance

JUDGMENT

[Judgment of the Court was made by P.VELMURUGAN, J.]

This writ appeal has been filed against the order dated 19.03.2013 made in W.P.No.30376 of 2002.

2 It is to be stated that the husband of the respondent Thiru. Ganapathy was taken by the Inspector of Police, Thiruvannainallur Police Station, on 27.09.2001 at 7.30 a.m., for an enquiry to the DSP's Office. Thereafter, the respondent was informed that her husband expired and his body was at the Villupuram Government Hospital. It was alleged that



the deceased Ganapathy was harassed by the police officials and the death of her husband has taken place while he was in police custody only. Hence she filed writ petition to direct the appellants herein to pay compensation of Rs.10,00,000/- and to take suitable disciplinary action against the police personnel and persons responsible for the death of her husband Ganapathy.

3 After hearing the arguments advanced on either side, the learned Single Judge, found that the death of respondent's husband was occurred only in the police custody and by order dated 19.03.2013, given a direction to the appellants herein to pay a sum of Rs.1,50,000/- as compensation to the respondent.

4 Aggrieved against the said order dated 19.03.2013 made in W.P.No.30376 of 2002, the appellants have preferred the present writ appeal.

5 We have heard the learned Additional Government Pleader appearing for the appellants and perused the materials placed before us.

6 The learned Additional Government Pleader appearing for the appellants contended that the deceased Ganapathy had consumed poison, even before he was taken by the Sub Inspector of Police/3rd respondent, for enquiry to the DSP's Office. According to the appellants, the third respondent had taken the deceased for an enquiry, with bonafide intention that to save life of the deceased and his family members, as he was informed that they are going to consume poison. Hence it cannot be said that the deceased died while he was in the police custody and the third respondent cannot be held responsible for the same. The respondent herself admitted that the dying declaration written by her deceased husband was handed over to her even before leaving the house, which clearly shows that the deceased has consumed poison even before he was taken to police custody. Furthermore, the third respondent on coming to know that the deceased consumed poison, while he was taken for enquiry, immediately given a complaint which was registered in FIR No.665/2001 dated 27.09.2001. Hence the learned Additional Government Pleader appearing for the appellants seeks to set aside the order of the learned Single Judge dated 19.03.2013 made in W.P.No.30376 of 2002.

7. From a perusal of available records and the FIR which was registered on 27.09.2001 at 5.00 a.m, it is clear that the deceased himself surrendered in the police station with an empty pesticide bottle and stated that he consumed poison. The postmortem report does not reveal that the deceased consumed poison and also the Doctor, who has done autopsy on the body of the deceased, has not opined that he consumed poison as stated by the appellants and also there is no proof to show that the intestine contained poisonous substances.



8. In view of the above contradictions, the learned Single Judge has come to the conclusion that the deceased died while he was in custody of the police and hence rightly awarded a sum of Rs.1,50,000/- as compensation to the respondent. This Court does not find any illegality or laxity in the order passed by the learned Single Judge. The appellants have not made out any case to interfere with the order dated 19.03.2013 in W.P.No.30376 of 2002 passed by the learned Single Judge.

9. In the result, the writ appeal stands dismissed. Consequently, connected miscellaneous petition is dismissed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gi/tar

To

1. The Secretary,
The Government of Tamil Nadu
Department of Home, Fort St. George,
Chennai - 600 009.
2. The Deputy Superintendent of Police,
Villupuram.
3. The Sub Inspector of Police,
Thiruvannainallur Police Station,
Villupuram District.

+1cc to Government Pleader SR.No.21853, 17789

KAN(CO)
sm:14.6.2018

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M.P.No.1 of 2014