



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P (MD) No.20125 of 2017

Dr.R.Kanagavel Pandian

.. Petitioner

Vs.

1.The State Government of Tamil Nadu,
represented through its Chief Secretary,
Secretariat, Fort St.George,
Chennai.

2.The Secretary to Government,
Department of Finance and Commerce,
Secretariat, Fort. St.George,
Chennai.

3.The Director General of Police,
Office of the Director General of Police,
601, Dr.Radhakrishnan Salai,
Mylapore, Chennai.

4.The District Collector,
Office of the District Collector,
Madurai District, Madurai.

5.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai District, Madurai.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents herein to take appropriate and effective steps to safeguard the general public from Exorbitant Interest atrocities in an emergency manner to avoid unnecessary deaths on the basis of the petitioner's representation, dated 25.10.2017.

For Petitioner

: Mr.V.B.Sundhareshwar

For Respondents

: Mr.A.K.Baskara Pandian
Special Government Pleader

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the Writ Petition itself is taken up for final disposal.

2. Mr.A.K.Baskara Pandian, learned Special Government Pleader appears for the respondents.

3. The Writ Petition is filed as a Public Interest Litigation by the petitioner claiming among other things that he is fighting for social cause for the past several years for the general welfare of the general public. The learned Counsel appearing for the petitioner, on instructions, would submit that the petitioner did not avail any loan on usurious interest and he is espousing the cause purely in public interest.

4. The petitioner would further aver that very recently on 23.10.2017, a family consisting of four members including two children committed suicide by self immolation in the premises of the District Collector of Tirunelveli, on account of charging of exorbitant interest by the concerned persons from whom, they availed the said loan.

5. The grievance expressed by the petitioner is that though the redressal grievance mechanism in the form of Tamil Nadu Prohibition of Charging Exorbitant Interest Act (Tamil Nadu Act 38 of 2003) is in place, the implementation of the said Act remains only on paper and though the persons affected by charging of usurious interest approached the jurisdictional police station, the complaint is not being taken, instead, they are made to run pillar to post and no effective action has been taken to curb the said illegal practice and the petitioner in this regard, had also submitted a detailed representation, dated 25.10.2017, to the Chief Secretary to Government of Tamil Nadu as well as to the Secretary to the Government, Department of Finance and Commerce of Government of Tamil Nadu. Since the said representation failed to invoke any action or response whatsoever, left with no other option, the petitioner is constrained to approach this Court by filing this Writ Petition.

6. The learned Counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that though the illegal practice of charging usurious interest said to be curbed by passing the above said statutory enactment, the implementation remains tardy and though the said fact has been brought to the knowledge of the Chief Secretary to the Government of Tamil Nadu as well as to the Secretary to Government of Tamil Nadu, Department of Finance, no action has been taken and therefore, prays for appropriate orders.



7. Per contra, Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the respondents has drawn the attention of this Court to the counter affidavit of the fifth respondent and would submit that to curb the said illegal practice, the third respondent has issued a circular memorandum in R.C.No.164908/Crime 4(2)/2017, dated 31.10.2017, giving out the details and the copies of the same have also been marked to the Commissioner of Police in Cities, all the Superintendent of Police in Cities and all Range DIGs and Zonal IGPs and proper and effective steps would be taken to curb the said illegal Act.

8. The learned Special Government Pleader has also drawn the attention of this Court to the counter affidavit of the fifth respondent and would submit that the cases relating to charging of usurious interest shall be specifically monitored by the Superintendents of Police in each District and since the mechanism is already in place, would pray for appropriate orders.

9. This Court has considered the rival submissions and perused the materials placed before this Court.

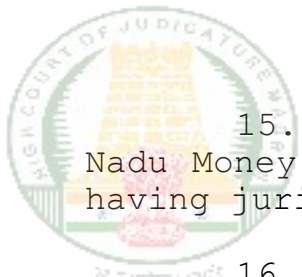
10. Tamil Nadu Prohibition of Charging Exorbitant Interest Act (Tamil Nadu Act 38 of 2003) was published in the Government Gazette on 14.11.2003 and it came into force on 09.06.2003. The statement of objections of the said Act would read as that it is an act to prohibit the charging of exorbitant interest by any person and matters incidental thereto.

11. A perusal of the said Act, it contains the exhaustive procedure as to the redressal of the grievance faced by the persons, who availed loan on usurious or exorbitant interest.

12. Section 9 of the said Act speaks about the abetment of suicide and it reads that " where a debtor or any member of his family commits suicide and it is shown that immediately prior to such suicide, the debtor or any member of his family was subjected to molestation by any person, the person who has advanced loan shall, unless the contrary is proved, be deemed to have abetted the commission of such suicide and as per the explanation, member of the family means, the spouse, unmarried daughter or unmarried son".

13. Section 12 of the said Act also speaks about the application of provisions of Money-lenders Act.

14. Tamil Nadu Money Lenders Act 1957 (Act 26 of 1957) was published in the Government Gazette on 28.12.1987 and it is passed to make provisions for regulations and control the business of the money-lenders in the State of Tamil Nadu.



15. The definition of the "Court" as per Section 8 of Tamil Nadu Money Lenders Act 1957 (Act 26 of 1957) is that the Court is having jurisdiction to entertain the suit for recovery of such loan.

16. Therefore, in the considered opinion of this Court, the grievance redressal mechanism in the form of Statutes is already available and it is the bounden duty of the respondents to see that the provisions of the Act are properly implemented in letter and spirit.

17. All the Station House Officers of all respective police station in the State of Tamil Nadu shall be properly educated, as to the provisions of the said Act. The primordial allegation is that the repeated complaints made by the persons aggrieved with regard to charging of usurious interest and harassment given by the persons who had granted the loan, though brought to the knowledge of concerned Station House Officers, they are not at all taking action and instead, they are siding with the persons who are doing such illegal acts.

18. This Court, taking note of the same, suggests that the Director General of Police through experienced Police Officials shall conduct the awareness programme, as to the effective and proper implementation of Tamil Nadu Prohibition of Charging Exorbitant Interest Act (Tamil Nadu Act 38 of 2003) and may also avail the assistance of Tamil Nadu State Judicial Academy to conduct the refresher course. The Director General of Police is also directed to issue one more circular in the light of the recent events to the concerned Officials as to the proper, effective and speedy implementation of the said Act.

19. It is a well settled position of law that once a statutory provision prescribes a thing to be done in a particular manner, it should be done only in that manner and not in any other way. The law enforcement Authorities should alive to the situation and to see that the provisions of the said Act are properly and effectively implemented in letter and spirit.

20. The Writ Petition stands disposed of accordingly.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar



To

1. The Director,
Tamil Nadu State Judicial Academy,
No.30/95, P.S.K.R.Road, R.A.Puram,
Chennai-600 028.
- 2.The Chief Secretary,
State Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai.
- 3.The Secretary to Government,
Department of Finance and Commerce,
Secretariat, Fort. St.George,
Chennai.
- 4.The Director General of Police,
Office of the Director General of Police,
601, Dr.Radhakrishnan Salai,
Mylapore, Chennai.
- 5.The District Collector,
Office of the District Collector,
Madurai District, Madurai.
- 6.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai District, Madurai.

+One cc To The Special Government Pleader, SR.No.41495
+One cc to M/s.V.B.Sundhareshwar, Advocate, SR.No.40916

ssl/rm
RL/9C/5P/SKN/RSK/SAR1/24/1/2018

W.P (MD) No.20125 of 2017