



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.09.2017
Pronounced on : 21.02.2018

CORAM :

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 16822 of 2016
and
W.M.P. (MD) No. 12198 of 2016

E. Athiyasakumar

... Petitioner

vs.

1. The State of Tamil Nadu,
through the Secretary to Government,
Home (Prison) Department,
Secretariat,
Fort St. George, Chennai.
2. The Additional Director General of Police,
Prison Department, Office of the
Additional Director General of Police,
No. 1, Gandhi Irwin Road,
Egmore, Chennai.
3. The Inspector General of Prison,
Office of the Inspector General of Prison,
Chennai.
4. The Deputy Inspector General of Prison,
Madurai Range,
Office of the Deputy Inspector General of Prison,
Madurai.
5. The Deputy Inspector General of Prison,
Trichy Range,
Office of the Deputy Inspector General of Prison,
Trichy.
6. The Superintendent of Prison,
Madurai Central Prison,
Madurai District,
7. The Superintendent of Prison,
Tiruchirapalli Central Prison,
Tiruchirapalli District.



8. The Superintendent of Prisons,
Palayamkottai Central Prison,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue writ of mandamus, to direct the respondents to take action disburse the victim compensation fund deducted from the wages of prisoners under the rule 486(6) of Tamil Nadu Prison Rules 1983 to all victims including the children of spouse murder case accused/victims within the time stipulated by this Court.

For Appellant : Mr.R.Alagumani
For Respondents : Mr.M.Govindan, Spl.G.P.

ORDER

(ORDER of the Court was made by G.R.SWAMINATHAN, J.)

This writ petition has been filed in public interest by a practising Advocate. The petitioner's grievance is with regard to non utilisation of the funds raised under Victim Compensation Scheme. The petitioner has invoked the provisions of RTI Act and the information that he has gathered indicates that the Victim Compensation Fund is substantially lying idle. He would particularly highlight the cases of those children, where one parent has been murdered by the other parent. Such children are not considered as victims of crime. They are rather looked upon as children of the convicted prisoner and therefore, not made as beneficiaries of Victim Compensation Fund.

2. Section 357 of Cr.P.C. enables the Court imposing a sentence of fine or a sentence of which fine forms a part to order that the recovered fine amount be applied to compensate any person for any loss or injury caused by the offence, when compensation is in the opinion of the Court recoverable by such a person in a Civil Court. Since the amount of the compensation payable to the victim will have to come from the recovered fine amount, Section 357-A of Cr.P.C. was incorporated to prepare Victim Compensation Scheme by the State Governments in co-ordination with the Central Government. This would enable the compensation to be paid directly to the victims by the State. But, the implementation of the said scheme was tardy. A Division Bench of this Court made strong remarks in this regard in **Katturaja V. State - 2014) 1 MWN (Cri) 517 (DB)**. The Hon'ble Supreme Court in **Suresh V. State of Haryana - (2015) 2 SCC 227** held that it is the duty of the Court to ascertain the financial need of victim arising out the crime immediately and to direct grant of interim compensation on its own motion irrespective of application of victim. It was also emphasised that the State Governments must provide adequate funds. This is because the object of Section 357-A Cr.P.C. is to pay compensation to victims, where compensation paid under Section 357 of Cr.P.C. is not adequate or where the case ended



in acquittal or discharge and where the victim is required to be rehabilitated.

3. Rule 481 of the Tamil Nadu Prison Rules, 1983 states that 20% of the wages earned by the prisoners shall be credited to prison fund to be paid to the victims. Rule 486(6) also states that 20% of the wages deducted for being credited to the prison fund shall be credited into the separate personal deposit account for the payment of victim compensation.

4. The petitioner herein has averred in his affidavit that he has interviewed a number of life convicts in various Central Prisons and that he found that in many cases, the convicts were found guilty of having murdered their own spouses. In all such cases, the victims can only be said to be the children.

5. Such children should not be seen as mere children of the convicts. They should actually be seen as victims of crime. One of their parents, it could be the mother or the father, have been done to death by the other spouse. Therefore, 20% of the wages earned by the convicted spouse should obviously go to the benefit of the children.

6. This Court therefore directs the respondents to prepare a list of such cases, where one spouse was murdered by the other. In all such cases, the details regarding the children should be gathered. Section 357-A of Cr.P.C. clearly states that the object of Victim Compensation Scheme is to provide funds for the purpose of compensation to the victim or his dependants who have suffered loss or injury as a result of the crime and who require rehabilitation. Since as per the rules set out in the Tamil Nadu Prison Rules, 1983, 20% of the wages of the prisoner is to be deducted for the payment of Victim compensation, the same can as well be directly paid.

7. The respondents 2 to 8 are directed to gather and collect the relevant particulars in this regard and submit the same to the first respondent within a period of 8 weeks from the date of receipt of a copy of this order. The first respondent shall thereafter issue appropriate directions for disbursement of the victim compensation fund deducted from the wages of the prisoners under rule 486(6) of Tamil Nadu Prison Rules, 1983. Such direction shall be issued within 8 weeks thereafter.

8. This writ petition stands allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/



To

1. The Secretary to Government,
State of Tamil Nadu,
Home (Prison) Department,
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Fort St. George, Chennai.
2. The Additional Director General of Police,
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6. The Superintendent of Prison,
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7. The Superintendent of Prison,
Tiruchirapalli Central Prison,
Tiruchirapalli District.
8. The Superintendent of Prisons,
Palayamkottai Central Prison,
Tirunelveli District.

+ 1 CC TO Mr.R.ALAGUMANI, ADVOCATE IN SR No. 50454
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 50613

ARUL

TE/KKR/SAR-4 : 30/05/2018 : 4P/11C

Order made in
W.P. (MD) No.16822 of 2016 and
W.M.P. (MD) No.12198 of 2016
21.02.2018