

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.5107 of 2011 and
M.P.No.1 of 2011

Logu.Ayyappan

... Petitioner

Vs

1.The Home secretary,
Union Territory of Puducherry,
Puducherry.

2.The District Magistrate,
I Floor, Revenue Complex,
Saram, Puducherry 605 013.

3.The Superintendent of Central Prison,
Kalapet, Puducherry.

4.The Inspector of Police (CID),
Puducherry.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the respondents 2 to 4 to make payment of Rs.1 crore (one crore) as a compensation for the illegal detention of the petitioner from 13.12.2010 to 15.12.2010 by the respondents for detaining the petitioner in Central Prison, Kalapet, Puducherry without any authority even after receipt of the revocation order in No.II/15032/04/2010-NSA dated 13.12.2010 on the file of the Ministry of Home Affairs, New Delhi.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.V.Balamurugane,
Additional Public Prosecutor (P)

O R D E R

The present writ petition has been filed to direct the respondents 2 to 4 to make payment of Rs.1 crore (one crore) as a compensation for the illegal detention of the petitioner from 13.12.2010 to 15.12.2010 by the respondents for detaining the

petitioner in Central Prison, Kalapet, Puducherry without any authority even after receipt of the revocation order in No.II/15032/04/2010-NSA dated 13.12.2010 on the file of the Ministry of Home Affairs, New Delhi.

2. According to the petitioner, he is a President of Periyar Dravidar Kazhagam of Puducherry Region. A case was registered against him and two others in Crime No.12 of 2010, in regard to the allegation that he conspired against the Indian Government to facilitate war against India. He was arrested on the basis of the said allegation and was also granted bail by the Lower Court. Subsequently, he was detained under the provisions of the National Security Act (NSA). The detention order was passed on 17.11.2010 and thereafter, he was sent to Kalapet Central Jail, Puducherry.

3. According to the petitioner, his detention was unsustainable in law. Therefore, a representation was made by his father to the Central Government requesting the Government to revoke the order of detention passed under the provisions of the NSA. In the meanwhile, a Habeas Corpus petition was also filed before this Court in H.C.P.No.2285 of 2010. On consideration of the representation of the petitioner's father, the Central Government has passed an order on 13.12.2010, revoking the order of detention under Section 14(1) of the NSA and directed the Government of Puducherry, the District Magistrate and the Superintendent of Central Prison, Kalapet, to release the petitioner from Jail.

4. Since there was no other criminal case pending against him, the petitioner ought to have been released on 13.12.2010, when the fax message reached the authority concerned on the same day of revocation on 13.12.2010. The grievance of the petitioner herein is that despite the fax message reached the authorities concerned on 13.12.2010, he was eventually released only on 15.12.2010 and in view of his illegal detention on 14.12.2010 and 15.12.2010, despite the revocation order was passed by the Central Government, he is before this Court seeking to issue a Writ of Mandamus, directing the respondents to make payment of Rupees One Crore as a compensation for detaining him without any authority.

5. The learned counsel for the petitioner would in all seriousness submit that in view of the illegal detention of the petitioner on 14.12.2010 and 15.12.2010, he was entitled to the compensation of Rupees One Crore from the respondents. According to him, when the message of revocation order has been passed on 13.12.2010, the authorities ought to have acted strictly and promptly to release the petitioner on 13.12.2010. Further detention of the petitioner without his involvement in any other

crime amounted to unauthorised and illegal detention. Therefore, the respondents are liable to pay the compensation.

6. Though the learned counsel for the petitioner would submit that in such matters, Courts have granted compensation, the learned counsel unfortunately is not able to justify such huge compensation being sought in the writ petition. The compensation of Rupees One Crore which is quantified by the petitioner, ought to have some basis for the Court to appreciate the claim. In the entirety of the averments as contained in the affidavit filed in support of the writ petition, no factual and legal basis have been disclosed as to how the compensation was quantified and arrived at by the petitioner.

7. Moreover, it is not specifically mentioned in the affidavit filed by the petitioner that as to whether there was any wanton or deliberate delay on the part of the authorities concerned while releasing the petitioner immediately within the matter of two days i.e., on 15.12.2010. The delay as projected by the petitioner appears to be hollow and unsustainable, since the order of revocation was passed only on 13.12.2010. He was released immediately on 15.12.2010 itself. In fact, in one of the communication dated 05.01.2011 of the District Magistrate, it is mentioned that the petitioner was released on 15.12.2010 at 5.30 p.m, after obtaining the approval from the Lieutenant Governor of Puducherry.

8. When the Government and the authority concerned are expected to follow certain procedure while releasing the detenu, unless any extraordinary or onerous delay is occasioned, the release of such detenu within such a short period of two days, cannot held to be completely without the authority of law and such detention cannot be construed as one of illegal detention. The claim for compensation of Rupees One Crore on behalf of the petitioner appears to be fanciful and baseless and such compensation does not merit any serious consideration by this Court under the circumstances explained above.

9. An attempt by the petitioner to seek such extraordinary compensation is probably intended to achieve collateral purpose and hence, such attempt ought not to receive any serious consideration by this Court as any such consideration would only encourage such attempts by certain vested interest in future by approaching this Court with highly inflated and imaginary compensation from the state.

10. On the whole, this Court finds that the writ petition is completely devoid of merits and substance and hence, the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsk

To

- 1.The Home secretary,
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Puducherry.
- 2.The District Magistrate,
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Saram, Puducherry 605 013.
- 3.The Superintendent of Central Prison,
Kalapet, Puducherry.
- 4.The Inspector of Police (CID),
Puducherry.

+1cc to M/S.S.Doraisamy, Advocate Sr.20786
+1cc to the Public Prosecutor, Sr.20475

सत्यमेव जयते

W.P.No.5107 of 2011

srg 02/04/2019

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