



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2019

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THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. 26801 of 2014

and

M.P. 1 of 2014

S.Murugan

... Petitioner

Versus

1. The State of Tamil Nadu,
rep. by its Principal Secretary,
Home Department,
Fort St. George,
Chennai-600 009.
2. The Director General of Police,
Tamil Nadu Police Department,
Kamarajar Salai,
Chennai.
3. The Inspector General of Prison,
Tamil Nadu Prison Department,
Gandhi Irwin Bridge Road,
Egmore, Chennai.
4. The Superintendent of Prison,
Central Prison, Salem.
5. Mr. Amalraj, I.P.S.,
Commissioner of Police,
Salem City, Salem.
6. Mr. Raja,
Inspector of Police,
Kitchipalayam Police Station,
Salem.

... 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 1st respondent to issue necessary



direction to the 2nd respondent to take appropriate action as against the respondents No.5 and 6 for having attacked the petitioner's son inhumanly and brutally on 10.09.2014 at Kitchipalayam Police Station in Salem for having not committed any such offences as alleged by the respondents No.5 and 6 and further direct the 1st respondent to pay the compensation of Rs.10,00,000/- to the petitioner's son, based on the petitioner's representation dated 20.09.2014 made to the 1st respondent.

For Petitioner : Mr.K.Kannan

For Respondents : Mr.R.Govindasamy,
Special Govt. Pleader
for R1 to R4

Mrs.C.V.Salin Nisha
for R5 & R6- No Appearance

O R D E R

This Writ Petition has been filed seeking compensation for the custodial violence against the petitioner's son by name Sundar.

2. The grievance of the petitioner is that, the petitioner's son by name Sundar is a social activist. To curtail his social activities, so many criminal cases have been registered against him in various places at Tamil Nadu. On 10.09.2014, he planned to go to Chennai through Salem, at that time, the respondents 5 and 6 along with their striking force forcibly taken petitioner's son to Kitchipalayam Police Station, where he was brutally attacked by the respondents 5 and 6 and their striking force, thereby caused serious injuries, and the 5th respondent also registered a criminal case against the petitioner's son for a major offence under Sec.302 I.P.C. Thereafter, he was taken to the hospital for treatment, and he was remanded to judicial custody. Since the petitioner's son has suffered custodial violence, the petitioner has made various representations to the respondents 1 and 2 to take action against the respondents 5 and 6 and also to pay compensation. Those representations were not considered. Hence, the present Writ Petition has been filed by the petitioner.

3. The 5th respondent, Commissioner of Police, Salem City has filed a counter affidavit stating that, the petitioner's son Sundar is a history sheeted rowdy and he was a hirelinks, killing people for money. As many as five criminal cases pending against him for major offence under Sec.302 I.P.C., two more criminal cases also registered for offences under Sec. 307 and 353 I.P.C. That apart, he has also detained under Goondas Act twice, and he is not a social activist as stated by the petitioner. In a criminal case of attempt to murder, registered



in Kitchipalayam Police station, the petitioner's son was involved and he was absconded. Based on the reliable information, in order to secure the accused, on 11.09.2014 at about 01.30 p.m., the police party went to the place along with informant, where the petitioner's son threatened them with deadly weapons and tried to escape from the police. At that time, he fell down on a rock and sustained injuries. Immediately, the police party took him to the Government Hospital, Salem for treatment, where he was given proper medical treatment, and after recovery, he was sent to jail. The injuries sustained by the petitioner's son not due to the custodial violence, but he has sustained injuries while he was trying to escape from the police party. The 6th respondent has also filed counter affidavit reiterating the facts narrated by the 5th respondent.

4. I have considered the submissions made by the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents 1 to 4 and perused the records carefully.

5. On perusal of the materials available on record, it could be seen that, there is a dispute regarding the cause of injury sustained by the petitioner's son, even though the petitioner has stated that, his son sustained injuries due to the custodial violence, there is no materials available on record to establish the same. Whereas, in the counter affidavit filed by the respondents 5 and 6, it is stated that the petitioner's son has sustained injuries while he tried to escape from the police party. In view of the above, the disputed issues cannot be decided in the Writ Petition, and without any substantial materials to establish custodial violence, this Court cannot award compensation under Art. 226 of Constitution of India. Hence, the relief sought by the petitioner cannot be granted in this Writ Petition. Therefore, the Writ Petition is liable to be dismissed. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition in M.P. 1 of 2014 is closed.

Sd/-

Assistant Registrar(CS)

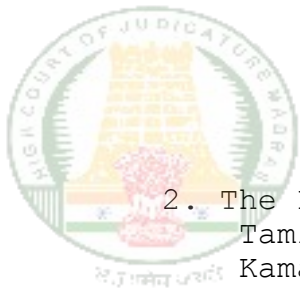
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Sub Assistant Registrar

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To

1. The Principal Secretary,
State of Tamil Nadu,
Home Department,
Fort St. George,
Chennai-600 009.



2. The Director General of Police,
Tamil Nadu Police Department,
Kamarajar Salai, Chennai.

3. The Inspector General of Prison,
rep. by its Regional Manager,
Gandhi Irwin Bridge Road,
Egmore, Chennai.

4. The Superintendent of Prison,
Central Prison, Salem.

+1 cc to Government Pleader Sr.No. 93370

W.P. 26801 of 2014
and
M.P. 1 of 2014

A.SK(10/02/2020)