



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

CAV ON : 08.04.2019

**Dated : 08.07.2019**

CORAM

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**WP(MD)No.9014 of 2010**

WEB COPY

R.Rajendran

... Petitioner

Vs.

1.State through the Home Secretary  
to the Government of Tamil nadu,  
Secretariat, Government Estates,  
Fort St George,  
Chennai - 9.

2.The Superintendent of Police,  
Virudhunagar District,  
Virudhunagar.

3.The Inspector of Police,  
Sivakasi Town Police Station,  
Virudhunagar District,  
Virudhunagar.

4.M.Ramasamy

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the respondents to pay a compensation of Rs.1,00,000/- on account of illegal detention for 41 days and for foisting false case knowing the same to be false and direct the respondents to pay the same within the time frame stipulated by this Court.

For Petitioner

: Mr.J.Jeyakumaran

For Respondents

: Mr.R.Anandharaj,

Government Advocate

for R1 to R3

: No appearance for R4

**ORDER**

This writ petition has been filed for a direction to the respondents to pay a compensation of Rs.1,00,000/- on account of illegal detention for 41 days and for foisting a false case against the petitioner.

2.Heard the learned Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the official respondents and there is no representation on behalf of the fourth respondent.



3.The case of the petitioner in brief is as follows:

3.1.The petitioner is the proprietor of a lodge namely Aryas Mansion at Sivakasi, Virudhunagar District. Opposite to his lodge, there is a theatre called Olympics Theatre. The partners of the said theatre had borrowed a sum of Rs.10,00,000/- from the petitioner, for business purposes, through one of the partners namely Subaidhar and he was transacting with the petitioner. But, later on, Subaidhar had alienated the said theatre to M/s. Ramdas and R.Solaisamy.

3.2.In the year 2003, Subaidhar had issued three cheques totalling to amount of Rs.4,00,000/- in discharge of his liabilities and he also filed a petition to declare him as insolvent. The said cheques, when presented got dishonoured. Hence, on 07.07.2003, the petitioner issued notice to the parties concerned and took steps to file a suit to declare the sale of the said theatre invalid.

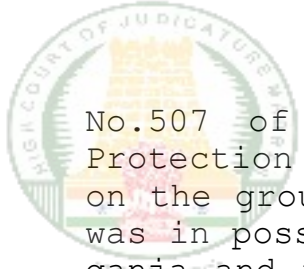
3.3.After receipt of the notice, the said Solaisamy called the petitioner to his office on 08.07.2003 and threatened him to withdraw the notice and to return the three cheques and if he is not obliging them then, they will do away with him. However, the petitioner refused to do so.

3.4.On 09.07.2003, two constables from Sivakasi Police Station, came to his residence and took him to the Police Station that he was wanted by one Kalai Kathiravan Sub-Inspector of Police, Sivakasi Police Station. In the Police Station, Kalai Kathiravan, abused him by using filthy language and threatened him that Solaisamy had lodged a complaint against the petitioner stating that the petitioner trespassed into his office and intimidated him and hence, the petitioner was asked to sit at a corner.

3.5.At 2.00 pm, the said Kalai Kathiravan asked the petitioner to bring the advocate notice and the dishonoured cheque and informed him that if the cheques were found to be true, he would be let off. Hence, the petitioner brought the documents to the Police Station through his son. Kalai Kathiravan received the said documents and left the Police Station and the documents were never returned to him. Due to such harassment, he fell ill.

3.6.In this connection, on 23.09.2003 the petitioner lodged a complaint before the third respondent. However, there was no action taken on his complaint and later on, he learnt that the dishonoured cheques were destroyed by the said Kalai Kathiravan. However, he filed a suit to declare the sale of the Olympic theatre as null and void and he was also seriously pursuing the complaint.

3.7.While so, on 12.05.2005, one Ramasamy, then Inspector of Police, Sivakasi foisted a case against the petitioner in crime



No.507 of 2005 under Sections 49(9) r /w 51(1) of Wild Life Protection Act, 1972 and Section 8 (c) r/w 20(b)(ii)(A) of NDPS Act on the ground that a person, who stayed in his lodge in Room No.102 was in possession of deer skin and a pair of deer horns and 2 Kgs of ganja and the petitioner was arrayed as A-2, on the ground that he refused to divulge correct information about the said person, who stayed in his lodge. In this connection, he was incarcerated for 41 days.

3.8.After coming out on bail, the petitioner came to know that the said case was closed as the person, who was alleged to in possession of the contraband was not traceable. However the petitioner has been in jail for 41 days illegally and because of the illegal custody, the petitioner and his family members had been put to suffer unexplainable agony and humiliation in the said society. The State is responsible for the act of the respondents and is liable to compensate the petitioner. Hence, the present writ petition.

4.Upon notice, the third respondent has filed a counter affidavit, wherein, it has been stated as follows:

4.1.The allegations levelled in the petition are related to the motive between the petitioner and one R.Solaisamy and his brother in respect of money dispute.

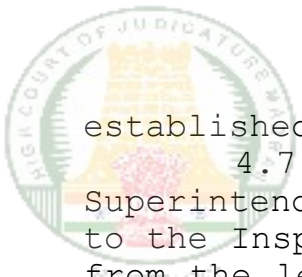
4.2.Further, the alleged occurrences are said to have occurred in the year 2003 and this writ petition is filed in the year 2010. This writ petition has nothing to do with the same. More over the case in Crime No.507 of 2005 has no relevance with the enmity between the petitioner and the said R.Solaisamy.

4.3.On receipt of credible information, on 12.05.2005 that illegal goods were stored in Room No.102 of Ariyas Hotel, Sivakasi, the 4<sup>th</sup> respondent / Inspector of Police, Sivakasi Town Police, after getting permission from the Deputy Superintendent of Police, Sivakasi, along with the Village Administrative Officer and his Assistant, searched the room and found 2 Kgs of ganja, deer skin and horn and the same were seized under athakshi arrest and as such the case in crime No.507 of 2005 was registered.

4.4.Despite the best efforts taken by the investigation officer, the another accused was not able to be traced and this petitioner was arrested and remanded into judicial custody.

4.5.The sample contraband was sent to chemical analysis and the expert opined that it was ganja and the learned Judicial Magistrate, after perusing the records remanded the petitioner into judicial custody.

4.6.The real fact and involvement of the petitioner could be



established, only after nabbing the co-accused.

4.7. Further, as per the direction of the Deputy Superintendent of Police, Sivakasi, the investigation was entrusted to the Inspector of Police, Thiruthangal and after receiving opinion from the learned Public Prosecutor, the case was closed as 'action dropped'. The finding of further action dropped, does not mean that the case is closed and even at any point of time, the case would be re-opened and further investigation would be conducted. Hence, dropping of action does not absolve the criminal liability of the petitioner at later date.

5. At this juncture, the learned Counsel for the petitioner brought to the notice of this Court, the enquiry report of the Assistant Superintendent of Police, Sivakasi, dated 13.11.2014, addressed to the Superintendent of Police, Virudhunagar.

6. A perusal of the records would reveal that an enquiry was ordered in this matter in the year 2014 and the Assistant Superintendent of Police, Sivakasi conducted an enquiry and submitted a detailed report dated 13.11.2014 to the Superintendent of Police, Virudhunagar District that there was a severe and serious professional lapses committed in this case and this matter requires serious consideration and a thorough further enquiry, in order to render justice to the petitioner. This Court deems it necessary to extract the report of the Assistant Superintendent of Police, Sivakasi, dated 13.11.2017 and accordingly the same is extracted hereunder:

"Sir,

On 18.08.2014, the petitioner R. Rajendran, owner of Aariyas Mansion visited my office and submitted a petition, stating that four false cases (Sivakasi Town PS. Crime Nos. 507/05, 799/05, 378/07 953/08) were registered against him on the instigation of an influential business group by the name P.S.R. He submitted evidences to establish that a civil dispute existed between him and PSR group prior to the year 2005. He vehemently, stated that these cases were fabricated and foisted false cases registered against him due to the long pending civil dispute between him and PSR group over the ownership of Olympic Cinema Theatre. He averred that the Police registered false cases on the instigation of and to favour PSR group. In three of the above mentioned cases, the complainants were staff working under the PSR group and the cases were given final disposal as M.F, another case quashed by Hon'ble High Court and yet another resulted in acquittal. His main prayer in the current petition was in Sivakasi Town PS Cr.No. 507/2005 u/s 8(c) r/w 20(b) 1



which he was detained under judicial custody for over 40 days. Earlier, he sent a complaint dated 25.04.2006 regarding the same allegations to the office of the Inspector General of Police, South Zone but he alleged that the petition has not been enquired into. The then IGP, South Zone, had written on his petition "Serious allegations, ADSP (Crime) for personal enquiry". However it was found that no enquiry was done and no reply was sent to the office of IGP, South Zone. After a delay of almost 8 years, I conducted an enquiry through SP, VNR. At the outset, prima facie, it appears that there is some truth behind these serious allegations, therefore a detailed enquiry was conducted.

Sivakasi Town PS.Cr.No.507/2005 u/s 8(c) r/w 20 (b)1(A) NDPS Act & 51(1) of Wildlife Protection Act was registered by Inspector Ramasamy on 12.05.2005. There were several faults and professional lapses in the investigation of this case, which were discovered during the course of this inquiry on perusal of the case diary. They are as follows:

1.The Inspector had stated that he received the information regarding narcotic substances and wildlife offences at 0900 hours and obtained written search order from Dy.S.P. At 0915 hours. However, Dy.S.P has permitted the search operation from 0900 hours itself, meaning the Dy.S.P. gave permission for the search much earlier than 0900 hours. Thus the search was supposedly well planned and there are discrepancies with regard to the timing mentioned.

2.The Inspector has reasoned that he had to take search permission from Dy.S.P (instead of Judicial Magistrate) because obtaining a search warrant from JM would take a lot of time. This reasoning is unacceptable. The time taken to obtain search warrant from Judicial Magistrate would not greatly differ from the time taken to obtain the same from Dy.S.P. Further, if the matter was gravely urgent and in public interest, Cr.P.C. Empowers the Inspector to conduct the search even without any prior permission. Thus this step raises doubts against the Inspector.

3.The case was registered on 12.05.2005, after deer horns, deer skin and 2 kg Ganja were allegedly recovered from room No.102 of Aariyas Mansion on the same day. However, the Guest Book Register clearly



mentions that room No.102 was occupied by a client from 11.05.2005. There was no departure signature against room No.102, meaning the room was still in occupancy stage and the temporary ownership and possession was with the guest. There was nothing on record to connect the owner R. Rajendran with the seized illegal items. The Inspector did not arrest the Manager S.Edwin, who was in-charge of the premise, but arrested the owner of the premise S.Rajendran without any incriminating evidence. The same legal opinion was recorded by Special Public Prosecutor, Pudukottai EC Court on 20.04.2009, who had opined the I.O. To refer the case as mistake of fact. So, there seems to be some credibility in the claims of Rajendran that he was targeted, victimized and arrested based on a conspiracy.

4.The FIR states that Inspector Ramasamy recovered 2 Kgs of Ganja from room 102, Aariyas Mansion during the raid conducted on 12.05.2005. However, 50 Kg of the seized Ganja was sent to Forensic Science Laboratory (FSL) for examination only on 10.07.2007. The deer horn and skin were never sent for forensic examination at all. The 2 year delay creates serious doubts about the seizure itself.

5.As per C.No.57/Memo/SDO/SVK/09, dated 15.03.2009, the Sub Divisional Police Officer of Sivakasi had ordered the transfer of investigation from Inspector, Sivakasi Town PS to Inspector Thiruthangal Police Circle. The memo alleges that despite six reminders, no progress in case diary and investigation were made over the past 4 years hence, the investigation was transferred. Further, the case diary denotes that the case was "AD on 18.05.209". It was never reflected in pending cases list after this date, meaning without filing proper Final Report in a Court of law and disposing it as per law the case has been obscured from supervision of senior officers. Thus the case has been falsely shown as "referred". This raises serious concern about the entire case.

6.On 16.07.2007, FSL had returned 35 Kg of ganja after utilizing 15 gm for the purpose of testing. Therefore, 1985g of ganja should be available in the Police Station premise, as the case is still in under investigation (UI) stage. Written reply were received from both Sivakasi Town PS and Thiruthangal PS that there was no ganja case property available in their



Police Stations. So the non availability / disappearance of 1985g of narcotic substance raises serious doubts about the raid and seizure itself.

7. Inspector Ramasamy occupied the position of Sivakasi Town Inspector from 02.05.05 to 18.02.06. The raid was conducted and case was registered on 12.05.05. But no seized sample was sent from FSL examination till 10.07.2007. However, as early as 05.06.05, he had requested the District Collector through a letter to cancel the license issued to Aariyas Mansion. This clearly establishes the charge that the Inspector Ramasamy was pin pointedly targeting the petitioner R. Rajendran and victimized him.

8. Although the case is still in UI stage, when the case diary was called for by me, SHOs from both Sivakasi Town PS and Thiruthangal PS reported that it was missing, thus raising more doubts. Later from, Sivakasi camp office records only the case diary was recovered and this enquiry was conducted. Neither the case diary found nor the case properties were found in both Police stations.

9. Even after they then IGP South Zone had written on this petition

" serious allegations, ADSP(Crime) for personal enquiry" no enquiry was conducted and the matter has been mysteriously kept in abeyance till date leading to serious doubts over the authenticity of the case.

In summation, the petitioner alleges that four false cases were registered against him in Sivakasi Town PS Cr.Nos.507 / 05, 799/05, 378/07, 953/08. He avers that the influential inspector Ramasamy had foisted these cases only to favour PSR group and he personally ensured that theses cases were registered. In my enquiry it was found that Crime No.799/05, the FIR Inspector Ramasamy Cr.No.953/08 was registered on 27.11.2008. On through search of Sivakasi Camp Office Records, a copy of the proceedings of Dy.S.P. Sivakasi dated 26.11.2008 was found and it clearly established that Inspector Ramasamy, who was Thiruthangal Circle Inspector, then was instructed to hold additional charge of Sivakasi Town PS on 27.11.2008; the day on which another case was registered against petitioner Rajendran. Corroborating these facts it is unquestionably manifested that Inspector Ramasamy had acted in a manner to victimise petitioner Rajendran.



The findings of my enquiry clearly point out that the allegations raised by the petitioner are not devoid of truth. These are very serious allegations and the evidence unearthed during the course of inquiry clearly point out to several serious professional lapses committed by Inspector Ramasamy. To quote the petitioner himself "for a false case registered against me which is eventually going on to be closed as "mistake of fact, I spent 45 odd days in jail". This matter requires serious consideration and a thorough further enquiry in order to render justice to the petitioner. The allegations leveled by the petitioner Rajendran madates enquiring several Police Officer who are no longer working in Sivakasi and also involves records which are with the IGP, SZ office and Virudhunagar District Police Office. Clearly the Sivakasi Sub Divisional Police Officer does not possess the wherewithal to conduct such an exhaustive inquiry. As per the mandate Police Standing Order (PSO 558), this matter clearly falls under Category (ix) or (x) and this report may be forwarded to Chief Office requesting for a detailed enquiry by a specialised agency.

*This is for information and necessary action."*

7.This Court paid its anxious consideration to the rival submissions and perused the materials placed on record and also perused the CD file.

8.The main allegation of the petitioner is that there was a civil dispute between the petitioner and one PSR group over the ownership of a cinema theatre at Sivakasi. At the instigation of the said PSR group, the respondent Police on 12.05.2005 have registered the case in Crime No.507 of 2005 for the offence punishable under Sections 49(9) r /w 51(1) of Wild Life Protection Act, 1972 and Section 8 (c) r/w 20(b)(ii)(A) of NDPS Act, which according to the petitioner is a false and concocted one and he was also remanded into judicial custody for nearly about 41 days. The allegations of the respondent Police in that criminal case is that the petitioner, being the owner of a lodge, namely Ariyas mansion, has failed to reveal the information about a person, who is alleged to have been in possession of a deer skin, a pair of deer horns and also 2 KGs of ganja in Room No.102, on 11.05.2005, while they made a search on receipt of credible information. But, the case was closed as mistake of fact on 18.05.2009 that the main accused, who is alleged to have been in possession of the contraband is not traceable. Though the main accused was not traceable and the case

<https://hosevisitors.in/hosevisitors/>



illegally detained for 41 days, when he had nothing to do with the alleged offence and the alleged main accused. Therefore, the petitioner has filed this writ petition seeking compensation.

9. It would be relevant to point out the findings of the Assistant Superintendent of Police, Sivakasi, dated 13.11.2014.

9.1.The Inspector of Police had stated that he received the secret information at 09.00 hours and obtained search permission from the Deputy Superintendent of Police at 09.15 hours. But, the the Deputy Superintendent of Police permitted the search operation at 09.00 hours itself and hence, the search was well planned and there are discrepancies in respect of the timings.

9.2.The reason stated by the Inspector for getting permission from the DSP, instead of Judicial Magistrate that obtaining permission from Judicial Magistrate would take a lot of time, is not acceptable and creates serious doubts.

9.3.The case was registered on 12.05.2005 and the contraband were recovered from Room No.102, which was occupied by a client from 11.05.2005 and the room was still in occupation and possession of the client, according to the Guest Book Register. There was nothing on record to connect the petitioner, being the owner, with the contraband. However, the Manager, who was in charge of the premises was not arrested, but the owner/ petitioner was arrested without any incriminating materials and the Special Public Prosecutor, Pudukottai EC Court also recorded the same opinion and hence, there seems to be some credibility in the claims of petitioner and he was targeted, victimized and arrested based on a conspiracy.

9.4.The FIR states that 2 Kgs of ganja, 2 deer horns and 1 deer skin was recovered. However, only 50 gms of ganja were sent to Forensic Science Laboratory (FSL) for examination on 10.07.2007 and there is a delay of two years in sending the contraband, which creates serious doubts about the seizure itself and the deer skin and horns were not sent to the Court. On 16.07.2007 FSL returned 35gm of ganja after utilizing 15gms for the purpose of testing. Therefore, 1985 gms of ganja should be available in the Police Station premise. However, there was no ganja property available in Sivakasi Town Police Station and Thiruthangal Police Station. Therefore, there is non- availability / disappearance of ganja.

9.5.The investigation was transferred from Sivakasi Town Police Station to Thiruthangal Police Circle and there was no progress, despite six reminders, the case was noted as AD on 18.05.2009 and the same never reflected in pending cases list and without filing proper final report in a Court of law and disposing it as per law, the case has been obscured form the supervision of Senior officers. This raises serious concern about the entire case.



9.6. One Ramasamy was the Inspector of Police, Sivakasi Town Police Station from 02.05.2005 to 18.02.2006 and the search was conducted on 12.05.2005. On 05.06.2005, the said Ramasamy, by a letter requested the District Collector to cancel the license issued to Ariyas Mansion. This clearly established the charge against the Inspector Ramasamy that he was targeting the petitioner and victimized him.

9.7. The case diary from both the Police Stations reported to be missing, which also raises more doubts and from Camp office the case diary was found and enquiry was conducted.

9.8. When an IGP had written on the complaint of the petitioner that "*serious allegations, ADSP (Crime), for personal enquiry*" no enquiry was conducted and the matter has been mysteriously kept in abeyance for several years, leading to serious doubts over the authenticity of the case.

9.9. In the enquiry, it was found that Cr.No.507 of 2005 was registered by Inspector Ramasamy himself and in Cr.No.799 of 2005, FIR itself reveals that SI Robinson registered a case based on the instructions from Inspector Ramasamy. Cr.No.953 of 2008, was registered on 27.11.2008 and it was found that Inspector Ramasamy, who was Thiruthangal Circle Inspector then, was in additional charge of Sivakasi Town PS on 27.11.2008.

9.10. Corroborating these facts it is unquestionably manifested that Inspector Ramasamy had acted in a manner to victimise the petitioner.

9.11. Finally, she concluded that the enquiry clearly pointed out the allegations raised by the petitioner are not devoid of truth and it clearly pointed out to several serious professional lapses committed by Inspector Ramasamy and she requested a further detailed enquiry by a specialised agency.

10. The enquiry conducted by the Assistant Superintendent of Police, Sivakasi, clearly establishes the serious lapses committed by the fourth respondent and the following points emerge for consideration of this Court.

a. The search was planned and there are discrepancies in respect of the timings.

b. Permission was not obtained from the concerned Judicial Magistrate.

c. According to the guest book register, Room No.102 was occupied by a guest from 11.05.2005 and on the day the case was registered, i.e., on 12.05.2005, the said room was in occupation of that guest.

d. The Manager, who was in charge of the premises was not



arrested, but the petitioner, who is the owner of the said premises was arrested and the Special Public Prosecutor, Pudukottai EC Court has also given such opinion.

e. As per the FIR, 2 KGs of ganja, 2 deer horns and 1 deer skin were recovered as early as on 12.05.2005 and 50 Gms of ganja were sent to the Forensic Lab only on 10.07.2007. There is a delay of two years in sending the sample of Ganja for analysis.

f. The remaining Ganja of 1950 Gms should be available in the Police Station, but, the same is not available either in Sivakasi Town Police Station or in Thiruthangal Police Station.

g. The investigation has been transferred from Sivakasi Police Station to Thiruthangal Police Circle.

h. The case was noted as AD on 18.05.2009, without filing proper final report in the Court concerned.

i. During the search on 05.06.2006, one Ramasamy was the Inspector of Police, Sivakasi Town Police Station and he has requested the District Collector to cancel the licence issued to the petitioner.

j. The case diary was not available in the Police Stations, but was available in the Camp Office.

k. Despite the personal enquiry into the complaint ordered by the Inspector General of Police in the year 2006, enquiry has been conducted only in the year 2014 and for more than eight years the matter has been kept without conducting any enquiry.

l. Cr No.507 of 2005 was registered by the Inspector Ramasamy and the FIR in Crime No.799 of 2005 reveals that the same was registered as per the instructions of the said Ramasamy. While registration of Cr.No.953 of 2008, on 27.11.2008, the said Ramasamy was in Additional Charge of Sivakasi Town Police Station. These facts show that the manner in which he acted against the petitioner.

m. The allegations of the petitioner are not devoid of truth and serious professional lapses have been committed by the said Ramasamy, Inspector of Police and further detailed enquiry by a specialised agency has been recommended.

11. Therefore, it is clear that in order to victimize the petitioner, the 4<sup>th</sup> respondent has foisted a case against him and the findings given by the Assistant Superintendent of Police, establish that the 4<sup>th</sup> respondent has committed a serious professional lapses.

12. It would be relevant to refer to the decision of the Hon'ble Supreme Court in the case of **Rudul Sah vs State of Bihar, reported in AIR 1983 SC1086**, wherein it has been held that that one of the ways in which the violation of the fundamental right under Article 21 of the Constitution by the authorities of the State can reasonably be prevented is to direct payment of monetary compensation to the individuals whose rights are affected. In para 10 it has been held as follows:

" . . . . Article 21 which guarantees the right



to life and liberty will be denuded of its significant content if the power of this Court were limited to passing orders of release from illegal detention. One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of Art. 21 secured, is to mulct its violators in the payment of monetary compensation. Administrative sclerosis leading to flagrant infringements of fundamental rights cannot be corrected by any other method open to the judiciary to adopt. The right to compensation is some palliative for the unlawful acts of instrumentalities which act in the name of public interest and which present for their protection the powers of the State as a shield. If civilization is not to perish in this country as it has perished in some others too well known to suffer mention, it is necessary to educate ourselves into accepting that, respect for the rights of individuals is the true bastion of democracy. Therefore, the State must repair the damage done by its officers to the petitioner's rights. It may have recourse against those officers."

13. The Hon'ble Supreme Court in **Bhim Singh Vs State of Jammu and Kashmir and others**, reported in (1985) 4 SCC 677, has held as follows:

" We can only say that the Police officers acted in a most high handed way. We do not wish to use stronger words to condemn the authoritarian acts of the Police. If the personal liberty of a Member of the Legislative Assembly is to be played with in this fashion, one can only wonder what may happen to lesser mortals. Police Officers who are the custodians of law and order should have the greatest respect for the personal liberty of citizens and should not flout the laws by stooping to such bizarre acts of lawlessness. Custodians of law and order should not become depredators of civil liberties. Their duty is to protect and not to abduct. We have no doubt that the constitutional rights of Shri Bhim Singh were violated with impunity. Since he is now not in detention, there is no need to make any order to set him at liberty, but suitably and adequately compensated, he must be. That we have the right to award monetary compensation by way of exemplary costs or otherwise is now established by the decisions of this Court in Rudul Sah Vs State of Bihar and Sebastian M. Hongray Vs Union of India. When a person comes to us with the complaint that he has been arrested and imprisoned with mischevous or malicious intent and that his constitutional and legal rights were invaded, the mischief or malice and the invasion may not be washed away or wished away by his being set free. In appropriate cases we have the jurisdiction to compensate the victim by awarding suitable monetary compensation. We consider this an appropriate case.



*We direct the first respondent the State of Jammu and Kashmir to pay Shri Bhim Singh a sum of Rs.50,000/- within two months from today. The amount will be deposited with the Registrar of this Court and paid to Shri Bhim Singh."*

14. At any event, an innocent person cannot be made to be victimized and suffered in the eye of law and the right guaranteed under Article 21 of the Constitution of India cannot be violated and this Court can understand the suffering and unexplainable agony caused to the petitioner, by way of registering a false case. Though it cannot be compensated by anything, but, in order to meet the ends of justice, this Court deems it fit to accede the prayer sought for by the petitioner, in view of the law laid down by the Supreme Court in the decision cited supra.

15. Though 2 kgs of ganja were recovered, the sample was sent for chemical analysis after two years and the remaining ganja according to the Assistant Superintendent of Police is not available in the Police Station. Though the Assistant Superintendent of Police has suggested with reference to the PSO 558 that this matter clearly falls under category (ix) and (x) and this report has to be forwarded to Chief Office requesting for a detailed enquiry of a specialised agency. Though this report was filed as early as on 13.11.2015, no steps have been taken either by the Superintendent of Police or by the Director General of Police to order for a detailed enquiry by a specialised agency. Normally the delay in investigation would definitely destroy the available evidence. It is doubtful whether any useful purpose would be achieved by ordering a detailed and through enquiry by a specialised agency, as the occurrence took place in the year 2005. However, in the interest of justice, this Court directs the Director General of Police, to order for a detailed enquiry by a specialised agency as per the mandate of Police Standing order PSO No.558 and as per the recommendation made by the Additional Superintendent of Police, Sivakasi.

16. In view of the discussions above, this writ petition is allowed and the respondents are directed to pay a sum of Rs.1,00,000/- as compensation to the petitioner within a period of three months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

1.The Home Secretary

to the Government of Tamil nadu,  
Secretariat, Fort St George,  
Chennai - 9.

2.The Superintendent of Police,  
Virudhunagar District,  
Virudhunagar.

3.The Inspector of Police,  
Sivakasi Town Police Station,  
Virudhunagar District,  
Virudhunagar.

4. The Additional Public prosecutor,  
Madurai Bench of Madras High Court, Madurai

Copy to

The Director General Of Police, Chennai

+1CC to Mr.J.Jeyakumaran,Advocate, SR.No. 74250 dated 09/07/2019

WP (MD) No.9014 of 2010  
08.07.2019

DKS (CO)

KB(20.04.2022) 14P 7C