



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2019

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 22594 of 2015

and

M.P. (MD) No. 1 of 2015

Mariyammal

... Petitioner

Vs.

1. The State of Tamilnadu,
Rep. by,
The Principal Secretary,
Home Department,
Fort St. George, Chennai.

2. The Director General of Police,
Office of the Director General of Police,
Beach Road, Mayilapur,
Chennai.

3. The Superintendent of Police,
Ramanathapuram District.

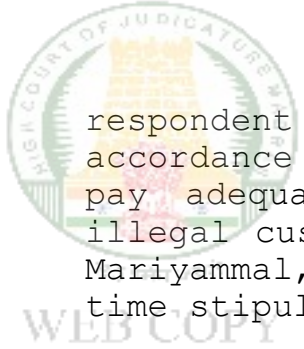
4. The Inspector of Police,
Sayalkudi police station,
Ramanathapuram District.

5. Thirupathi,
Inspector of Police,
Sayalkudi police station,
Ramanathapuram District.

6. Karthigai Raja,
Sub Inspector of Police,
Sayalkudi police station,
Ramanathapuram District.

7. The Dean,
Ramanathapuram District Head Quarters Hospital,
Ramanathapuram District.

... Respondents



respondent No.2 to take action against respondent No.5 and 6 in accordance with law, consequently to direct the respondent No.1 to pay adequate amount of compensation to the petitioner for the illegal custody, torture and attack against the petitioner, namely, Mariyammal, aged 70 years by the respondent No.5 and 6 within the time stipulated by this Court.

For Petitioner : Mr.R.Alagumani

For R-1to R-4 & R-7: Mr.A.Robinson,
Government Advocate(Crl. Side).

For R-5 : Mr.R.Anand

O R D E R

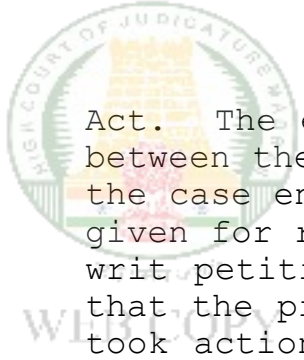
Heard the learned counsel on either side.

2. The petitioner is a 70 years old woman. Her allegation is that on 23.11.2015 at around 01.00 p.m, the police officials from Sayalkudi police station had trespassed into her house and enquired about her brother-in-law Subramaniyan. Since the said Subramaniyan was not available then, according to her, the police officials assaulted her brutally. She also alleged that she was illegally detained. She was later admitted to the hospital on 01.12.2015. Since her human rights were infringed, the petitioner lodged a complaint on 03.12.2015 before various authorities. Since no further action was taken, this writ petition came to be filed.

2. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of this writ petition.

3. The third respondent as well as the fifth respondent have filed their respective counter affidavits. It is seen from the counter affidavit of the fifth respondent, the petitioner was shown as accused in Crime No.203 of 2015 registered under Section 4(1)(a) of Tamil Nadu Prohibition Act. She was however granted station bail. The fifth respondent has denied the allegations made against him in the affidavit filed in support of this writ petition.

4. The Superintendent of Police, Ramanathapuram, has also filed a detailed counter affidavit. Based on the complaint dated 03.12.2015 given by the petitioner herein, enquiry was ordered. The Additional Superintendent of Police Head Quarters, Ramanathapuram conducted an elaborate enquiry. During the enquiry, the petitioner alleged that she was taken to Sayalkudi police station and beaten up. But in her complaint, she stated that she was beaten up in her residence. It is also seen that the petitioner was shown as an accused in two cases including Crime No.147 of 2015 and Crime No.203 of 2015. Both are as per the provisions of Tamil Nadu Prohibition



Act. The enquiry officer also found that there was a civil dispute between the writ petitioner's family and one Backiyathammal and that the case ended in favour of Backiyathammal and police protection was given for removal of encroachment said to have been committed by the writ petitioner's family. The enquiry officer has given a finding that the present complaint was given as counter blast as the police took action to enforce the civil Court's decree given in favour of Bakiyathammal against the petitioner's family. Based on his report, further action was dropped.

5. Since the petitioner's complaint was already enquired into and closed itself, no further orders are necessary in this case.

6. The learned Government Advocate has given a copy of the report to the petitioner's counsel. It is of course open to the petitioner to work out her rights in the manner known to law.

7. The matter cannot end there. I have to necessarily make a remark on the affidavit filed by the fifth respondent herein. The fifth respondent herein in paragraph No.5 of his counter affidavit asserted that the writ petitioner admitted the commission of offence and that she was imposed with fine and that it was also paid by her. He went to the extent of stating that after the payment of fine with an intention to wreck vengeance against him the complaint was given. But the Superintendent of Police, Ramanathapuram, contradicts the said stand. According to him, Crime No.203 of 2015 was closed by invoking Section 468 of Cr.P.C. Therefore the theory of payment of fine is obviously false. In fact believing the said claim of the fifth respondent, I had directed the Superintendent of Police, Ramanathapuram, to verify the records and make a statement as to whether the petitioner had actually affixed her thumb impression in the Court records. It appears that the fifth respondent has filed a counter affidavit without actually verifying the records.

8. I record my displeasure over the conduct of the fifth respondent.

9. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)



To

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SDS (04.06.2020) 4P-6C