

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2020

CORAM :

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CrI.O.P.No.20577 of 2019

1. Mrs.Shailashree Dayanand
2. Mr.S.Suresh

... Petitioners

Vs

1. Commissioner of Police (Chennai City)
No.132, Commissioner Office Building,
EVK Sampath Road,
Vepery, Periyamet,
Chennai - 600 007.
2. Deputy Commissioner of Police,
St.Thomas Mount District,
Chennai - 600 016.
3. The Inspector of Police,
SI St.Thomas Mount PS
Chennai.
(Crime No.257 of 2018)
4. Mr.Gopi
C/o. The Inspector of Police
SI St.Thomas Mount PS
Chennai.
5. The Tamil nadu State Legal Services Authority,
Represented by its member Secretary,
High Court buildings,
Chennai - 600 104.

... Respondents

(R5 is impleaded as per order in
CrI.M.P.No.14900 of 2019 in CrI.O.P.No.20577
of 2019 dated 18.10.2019)

PRAYER: Criminal Original Petition filed under Section 482 of
Criminal Procedure Code praying to direct the respondents 1 to 3
to make a compensatory relief for breach of public duty on the
part of respondents 1 to 3 and to repair the wrong done

amounting to Rs.51,52,000/- to the 1st petitioner.
(amended as per order in CrI.Mp.14899/2019 in OP.no.20577/19 dated 18/10/2019)

For Petitioners: Mr.Ajay Francis Inigo Loyola
For Respondents: Mr.S.Karthikeyan, Additional
Public Prosecutor for R1 to R3 and R5.

O R D E R
(through Video Conference)

This Criminal Original Petition has been filed seeking direction to direct the respondents 1 to 3 to make compensatory relief for breach of public duty on the part of respondents 1 to 3 and to repair the wrong done amounting to Rs.51,52,000/- to the 1st petitioner.

2.Heard Mr.Ajay Francis Inigo Loyola, learned Counsel appearing for the Petitioners and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing on behalf of the respondents 1 to 3 & 5.

3.The learned Counsel appearing for the Petitioners submitted that the Petitioners herein are the relatives of the deceased S.Dayanand, who met with an accident on 11.07.2018. For the said occurrence, the third respondent police registered the First Information Report in Crime No.257 of 2018 for the offence under Sections 279 and 304 (a) of Indian Penal Code, upon the complaint given by one Mr.S.Suresh who is the second petitioner herein. In the complaint, the second petitioner herein alleged that during the time of occurrence, the deceased negligently fell down from the motorcycle and after getting first aid from the Government Hospital, Saidapet, he died on the way, when he was brought to Royapettah Government Hospital.

4.The learned Additional Public Prosecutor appearing on behalf of the respondents 1 to 3 and 5, on instructions would submit that the third respondent police conducted investigation and filed final report as further action dropped on 17.09.2020 before the Judicial Magistrate, Alandur. Further, before filing final report, R.C.S.notice has been served to the petitioner. The said submission is recorded.

5.Now, on considering the rival submissions made by either side and on going through the copy of the inquest, which have been prepared by the Investigation Officer, the information on the panchanama as to the cause of the death is that during the time of occurrence due to rain, the motorcycle drove by the deceased illegibly fell down and as a result of which, the

deceased sustained severe injuries. Therefore, the said circumstances, reveals the fact that negligence of the deceased is responsible for the alleged occurrence as stated by the petitioners. Therefore, it cannot be said that the respondents 1 to 3 committed any wrong towards the deceased.

6.Hence, the appropriate relief available to the petitioners is that they shall file an appropriate application before the competent forum for identifying the accused and for necessary action. Therefore, in the absence of any wrong on the part of the respondents 1 to 3, this Court cannot direct the respondents 1 to 3 to pay compensation as if they have breached the public duty.

7.Accordingly, this Petition is devoid of merits and hence, dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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2. The Deputy Commissioner of Police,
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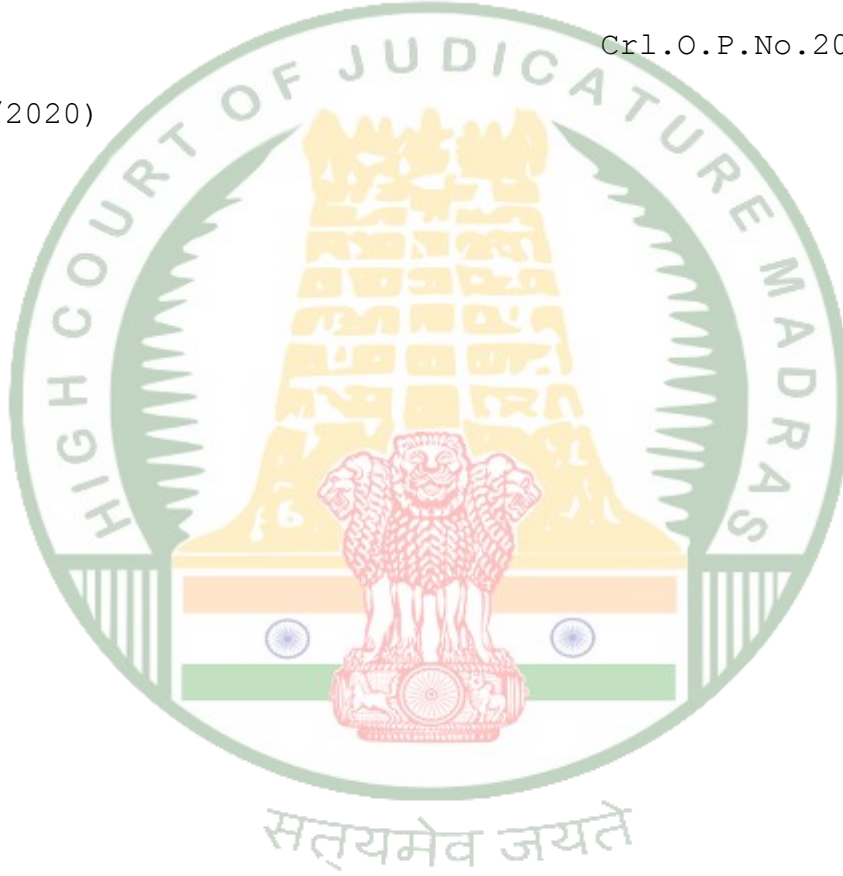
5. The Tamil nadu State Legal Services Authority,
Represented by its member Secretary,
High Court buildings,
Chennai - 600 104.

6.The Public Prosecutor,
High Court of Madras,
Chennai.

+1 cc to M/s.Ajay Francis Indigo Loyola,Advocate Sr.No. 37292

Cr1.O.P.No.20577 of 2019

SSD(CO)
RMP(14/12/2020)



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