



WEB COPY

W.P.(MD)No.12039 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 01/12/2020

PRESENT

The Hon'ble Mr.Justice **G.K.ILANTHIRAIYAN**

W.P.(MD)No.12039 of 2017

M.Thangathai

... Petitioner

Vs

1.Secretary to Government,
State of Tamil Nadu,
Public Works Department,
Fort. St. George, Chennai.

2.The District Collector,
Virudhunagar District,
Virudhunagar.

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

4.The Deputy Superintendent of Police,
Sivakasi,
Virudhunagar District.

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

6.The Sub-Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.

7.Baskaran

8.Ramasubramanian

9.Muthumariappan

... 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 respondents 1 to 6 herein to pay a sum of Rs.15,00,000/- as compensation for the death of my son namely K.Saravana Kumar on



WEB COPY

W.P.(MD)No.12039 of 2017

25.03.2017 at 4.30 a.,m at Government Rajaji Hospital, Madurai under suspicious circumstances.

For Petitioner
For Respondents
1 to 6

:Mr.G.Marimuthu
:Mr.K.Chellapandian
Additional Advocate General
Assisted by
Mr.K.Dinesh Babu,
Additional Public Prosecutor

O R D E R

This Writ Petition has been filed seeking direction to the respondents 1 to 6 herein to pay a sum of Rs.15,00,000/- as compensation for the death of my son namely K.Saravana Kumar on 25.03.2017 at 4.30 a.,m at Government Rajaji Hospital, Madurai under suspicious circumstances.

2.The learned counsel appearing for the petitioner submitted that the son of the petitioner was illegally detention by the fifth respondent Police on 20.03.2017. Again he was taken on 21.03.2017 at morning hours and he was kept in the police station illegally and tortured and brutally attacked by the police officials viz., respondents 7 to 9 herein. On the same day, he was returned to his house. On 22.03.2017 at morning hours he was not waken up as usual and he was taken to the Vijaya Nursing Home, Sivakasi for treatment and the Doctor treated him as inpatient advised to take CT scan to find out the complications in the body. On the same day, he was taken to CT scan in Devaki Scans, Virudhunagar. Thereafter, on 23.02.2017 again he was admitted in the Meenakshi Mission Hospital, Madurai for treatment and thereafter he was admitted to Mathi Integrated Health Centre Ltd., for treatment. Only on the advise of the Doctor, on 23.03.2017 he was taken to the Hannah Joseph Hospital, Madurai for better treatment. On the same day at about 11.55 p.m, he was taken to Government Rajaji Hospital, Madurai for treatment unfortunately, on 25.03.2017 at about 04.30 a.m her son expired and immediately his body was taken to the mortuary for postmortem. He further submitted that the police officials have used their influence and stopped the hospital authorities from conducting postmortem and threatened the petitioner and her family members to burn a body immediately, without making any contravention. He further submitted that the son of the petitioner was aged about 30 years and he was hale and healthy and there is absolutely no chance for his death by illness. He further submitted that only the petitioner's son has sustained an internal injuries all over the body from the hand of the respondents 7 to 9 and he died. In fact, the said news was also published in Nakeeran magazine about the torture given by the police officials. Therefore, on 19.04.2017 the petitioner has sent representations to all other higher officials. In fact on 09.05.2017, she was also called for enquiry and she has spoken about the torture given by the police officials and even then the third respondent failed to register any FIR as against the police officials. He further



submitted that now the police Standing order stated that the complaint as against the police officials, the above rank of DSP has to enquire the complaint. Therefore, the petitioner sought for change of investigation as well as seeking compensation of Rs.15 lakhs to the petitioner herein.

WEB COPY

3.Per contra, the learned Additional Advocate General has produced the counter affidavit filed by the third respondent, stating that the petitioner's son was not taken by the fifth respondent or the Police officials for any enquiry. He further submitted that one Anil Kumar was enquired and on his statement recorded and revealed that no complaint was lodged by Sathya as against one Anil Kumar and there is absolutely no relationship between the petitioner's son and Sathya. Therefore, the fifth respondent and other police officials had no possession to take petitioner's son for custody or for any enquiry. He further submitted that the petitioner's son was alcoholic and chain smoker. Therefore, he was suffered stroke and as such on 22.03.2017 he was taken to Hospital for treatment and thereafter, he was admitted to various hospitals. Unfortunately, he was taken to the Rajaji Government Hospital, Madurai, where, he died due to **"POSTERIOR CIRCULATORY STROKE"**. The relatives of the petitioner would not have received the body of the deceased and definitely asked for postmortem on the body of the deceased. The son of the petitioner was died on 25.03.2017, whereas, the petitioner has lodged a complaint only on 19.04.2017, after lapse of 25 days. Even then on receipt of the said complaint, third respondent herein has conducted detailed enquiry and found that the deceased was never taken to the Police Station by the fifth respondent or his subordinates for any enquiry. Therefore, this writ petition itself has been filed on suspicious ground and hence, he prayed for dismissal of this petition.

4.Mr.G.Marimuthu, learned counsel appearing for the petitioner and Mr.K.Chellapandian, learned Additional Advocate General, assisted by Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents 1 to 6.

5.On 22.03.2017, the petitioner's son due to his ailments was taken to Vijaya Nursing Home for treatment. On perusal of the document enclosed with the typeset of papers filed by the petitioners revealed that the prescription enclosed in the typeset date nil by the Vijaya Nursing Home prescribed some medicines for ailment suffered by the petitioner's son. Accordingly, the deceased purchased medicines from the Vijaya Nursing Home and also undergone for CT scan for on brain of the petitioner's son at Devaki Scan Centre, Virudhunagar. The CT Scan Report also reveals that;

1.No significant intracranial abnormality detected.

2.No evidence of intracranial haemorrhage/ infarct.



3.No evidence of space occupying mass lesion(Sol).

6. There is no piece of evidence to show that the son of the petitioner sustained any external or internal injuries. Thereafter, on 22.03.2017 the deceased was taken to Meenakshi Mission Hospital, Madurai, for further treatment. Thereafter, he was taken to Mathi integrated Health Centre for treatment. Again on the advise of the Doctors, he was taken to Hanna Joseph Hospital, Madurai. Again, he was admitted Rajaji Government Hospital, Madurai for better treatment. Though the petitioner was taken to so many hospital, no accident registrar was recorded by any of the hospital. Admittedly no accident registrar was recorded and produced by the petitioner. Further, as rightly pointed out by the learned Additional Advocate General if at all the deceased sustained any injury by the police personnels, after the death of and also died due to the said injury the relatives including the petitioner/mother of the deceased, no one have received the body of the deceased from the hospital and they would have asked for postmortem on the body of the deceased. On the complaint lodged by the petitioner, the third respondent conducted enquiry in which, wife of the deceased made statements and revealed that deceased was alcoholic and chain smoker due to posterior circulatory stroke, he died. Therefore, there is no piece of evidence to show that the petitioner's son was illegally detention by the fifth respondent and he was brutally attacked by the respondents 7 to 9.

7. That apart no complaint has been lodged by the petitioner before the human rights commission, who is competent to enquire this kind of complaint such as illegal detention and custodial tortured by the police personnels. In fact, the petitioner's son was died on 23.02.2017 where, the petitioner has lodged the complaint only on 19.04.2017 and there is no explanation for the delay. Therefore, the petitioner is not entitled for getting compensation. Hence, this writ petition stands dismissed as devoid of merits. No costs.

Sd/-

Assistant Registrar (Crl side)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsg

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

- 1.The Secretary to Government,
State of Tamil Nadu,
Public Works Department,
Fort, St. George, Chennai.
- 2.The District Collector,
Virudhunagar District,
Virudhunagar.
- 3.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.
- 4.The Deputy Superintendent of Police,
Sivakasi,
Virudhunagar District.
- 5.The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.
- 6.The Sub-Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.
- 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

W.P. (MD) No.12039 of 2017
01.12.2020

—
pm (CO)
KK (09.02.2021) 5P 8C