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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. NO. 15009 OF 2009

Rajan

.. Petitioner

Versus

1. State Rep by
The Chief Secretary
Secretariat, Fort St. George
Chennai.
2. The Secretary
Public Department,
Secretariat, Fort St. George,
Chennai.
3. The Inspector General of Police (Prison),
Chennai.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to pay a sum of Rs.75,00,000/- (Seventy five lakhs) as compensation for the loss of petitioner's son.

For Petitioner : Mr.N.Sudharsan

For Respondents : Mr.G.Krishnaraja
Government Counsel

ORDER

This writ petition has been filed praying to issue a Writ of Mandamus directing the respondents to pay a sum of Rs.75,00,000/- as compensation for the death of his son Dhanasekaran.



2. According to the petitioner, his son was detained under Goondas Act vide order dated 16.04.2009 passed by the District Collector and the District Magistrate, Thiruvallur. The said order of detention was quashed by a Division Bench of this court vide order dated 25.06.2009 passed in HCP No.757/2009. The case of the petitioner is that various criminal cases have been registered against his son and in five cases out of seven, he was granted statutory bail. With regard to the remaining two cases, remand was extended and on 09.07.2009, while he was under the custody of police and being in the police van, after producing him before the Court, one Head Constable namely Murugan, who suspected the petitioner's son to be a culprit of the murder of his mother, shot him, due to which, he succumbed to the injuries. Thus, the petitioner lost his only son aged 26 years due to an act of violence by the Head Constable. Stating that a police Constable has to act as a protector, but he has become the offender and hence, the Government is responsible for the wrongful action of its officials, the petitioner has filed this writ petition seeking a direction to the respondents for payment of compensation.

3. The learned Government Counsel appearing for the respondents submitted that immediately after the incident, prompt action was taken by the respondents. The Head Constable 365 Murugan was arrested and sent for judicial custody. He further submitted that the act done by the Head Constable could not be brought within the ambit of the act done in discharge of official duty and it was done on his own accord, without the knowledge of the higher authorities. Hence, the question of vicarious liability or tortuous liability on the respondents, does not arise warranting payment of compensation to the petitioner.

4. At this juncture, the learned counsel appearing for the petitioner restricted the prayer made in this writ petition to the extent of seeking a direction to the respondents to consider the petitioner's representation dated 11.07.2009, within a time frame to be stipulated by this court.

5. In view of the limited relief now sought by the learned counsel appearing for the petitioner, which has not been seriously opposed on the side of the respondents, this court directs the respondents to consider the petitioner's



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representation dated 11.07.2009, if not considered earlier, and pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

6. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

mst

To

1. The Chief Secretary, Secretariat,
Fort St. George, Chennai.
2. The Secretary, Public Department,
Secretariat, Fort St. George,
Chennai.
3. The Inspector General of Police (Prison),
Chennai.

+1cc to Mr.N.Sudharsan, Advocate, S.R.No.44098

+1cc to the Government Pleader, S.R.No.44254

WP No. 15009 of 2009

CA(CO)
RLP(12/10/2021)