



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16995 of 2013

and

M.P.No.1 of 2013

Thirunavukkarasu

...Petitioner

Vs.

1. The Secretary to Government,
Home Department,
Government of Tamil Nadu,
Fort St. George, Chennai-9.
2. State of Tamil Nadu represented by its
District Collector,
Chennai District, Singaravelar Maligai,
Rajaji Salai, Chennai-1.
3. Mr.Pachaimuthu,
Sub-Inspector of Police,
P-3 Vyasarpadi Police Station,
Vyasarpadi, Chennai-39.
4. Sonia Gandhi,
Sub-Inspector of Police,
P-5 MKB Nagar Police Station,
Vyasarpadi, Chennai-39
5. Mugundan,
Sub-Inspector of Police,
P-5 MKB Nagar Police Station,
Vyasarpadi, Chennai-39.
6. Ashok Thomas,
Sub-Inspector of Police,
P-5 MKB Nagar Police Station,
Vyasarpadi, Chennai-39.
7. Mangaldas, Head constable,
P-5 MKB Nagar Police Station,
Vyasarpadi, Chennai-39.



8. Karthik, Special Sub-Inspector
P-5 MKB Nagar Police Station,
Vyasarpadi, Chennai-39.

9. Elayaraja,
A.R Police constable,
P-3 Vyasarpadi Police Station,
Vyasarpadi, Chennai-39.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to pay to the petitioner compensation of Rs.25,00,000/- for the custodial violence and humiliation suffered by him in the hands of the respondents 3 to 9.

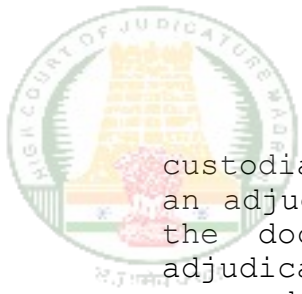
For Petitioner	:	Mr.J.Deliban
For R1 and R2	:	Mr.C.Kathiravan Government Advocate
For R3 to R5, R7 and R8	:	Mr.Shanmugavelayutham Senior Counsel for Mr.J.Vepparasu
For R6 and R9	:	No Appearance

O R D E R
(Through Video Conferencing)

The writ on hand has been instituted to issue a direction to the respondents to pay the petitioner compensation of Rs.25,00,000/- for the custodial violence and humiliation suffered by him in the hands of the respondents 3 to 9.

2.The grievance of the writ petitioner is that he had come to Chennai on 07.06.2013 in connection his official work and had to leave to Nellore on 11.06.2013. His house is situated in Chennai. On 10.06.2013, at about 11.00 p.m., after packing his luggage, he was sleeping in his house in order to catch the train in the next morning. During the midnight, 20 Police personnel knocked the doors of the petitioner, including the respondents 3 to 9. They used filthy language against the petitioner. The petitioner was taken into custody and he was subjected to harassment. Thus, the petitioner is constrained to move the present writ petition.

3.Admittedly, the case on hand is regarding the alleged



custodial torture by the Police Department. Such issues require an adjudication of facts, which is to be done with reference to the documents and evidences available. Such an elaborate adjudication cannot be undertaken by the High Court in a writ proceedings under Article 226 of the Constitution of India. The petitioner has to approach the competent forum for effective adjudication and resolve the issues. In view of the fact that the petitioner seeks compensation for custodial harassment, writ proceedings may not be an appropriate remedy. Thus, the petitioner is at liberty to approach the competent forum for the purpose of crystallizing his rights contemplated under law.

4.The learned counsel for the petitioner made a submission that the petitioner has not been served with the copies of the enquiry report. The learned counsel for the petitioner strenuously contended that, approaching the High Court under Article 226 of the Constitution of India is the petitioner's Constitutional right.

5.This Court is of the considered opinion that every citizen of our great nation has got Constitutional right to approach the High Court and the High Court is duty bound to consider the entertainability of the writ petition with reference to the issues raised by the parties.

6.The learned counsel for the petitioner, in anguish, expressed that the writ petition is pending for about nine years.

7.However, the High Court has to ascertain the rights of the parties for the purpose of granting the relief. Mere pendency or long pendency would not confer any right for getting the relief in a writ proceedings under Article 226 of the Constitution of India. This Court is of the considered opinion that the rights of the parties for compensation is to be considered only with reference to the documents and evidences. In the present case, the petitioner has raised serious allegations against the officials for custodial harassment. Thus, an enquiry and trial becomes imminent to crystallize the rights. This being the principles to be followed, the petitioner is at liberty to approach the competent forum for the purpose of redressing his grievances in the manner known to law. Contrarily, the High Court cannot fix the compensation.

8.Even taking into consideration the nature of the relief sought for in the present writ petition, the petitioner seeks compensation of Rs.25,00,000/-. On what basis, the High Court can fix the compensation in a writ proceedings of this nature ? The High Court is not expected to grant compensation in a whimsical manner in the absence of establishing the rights based on evidences. Thus, the relief cannot be considered.



WEB COPY

Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

mkn

To

1. The Secretary to Government,
Home Department,
Government of Tamil Nadu,
Fort St. George, Chennai-9.
2. The District Collector,
State of Tamil Nadu,
Chennai District, Singaravelar Maligai,
Rajaji Salai, Chennai-1.
3. The Sub-Inspector of Police,
P-3 Vyasarpadi Police Station,
Vyasarpadi, Chennai-39.
4. The Sub-Inspector of Police,
P-5 MKB Nagar Police Station,
Vyasarpadi, Chennai-39
5. The Special Sub-Inspector,
P-5 MKB Nagar Police Station,
Vyasarpadi, Chennai-39.
6. The Head Constable,
P-5 MKB Nagar Police Station,
Vyasarpadi, Chennai-39.
7. The A.R Police constable,
P-3 Vyasarpadi Police Station,
Vyasarpadi, Chennai-39.

+5cc to Mr.J.Vepparasu, Advocate, S.R.No.57043

+1cc to Mr.R.Rajamani, Advocate, S.R.No.57072

W.P.No.16995 of 2013

KV (CO)
RGA (26/11/2021)