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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-11-2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.28495 of 2011

And

MP No.1 of 2011

K.Shanthi

..Petitioner

vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Home Department,
Fort St. George,
Chennai-2.
2. The District Collector,
Collectorate,
Chennai.
3. The District Collector,
Collectorate,
Thiruvallur District.
4. The Director General of Prisons,
Tamil Nadu Prison Department,
Chennai Metropolitan Development
Authority Tower II,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
5. The Superintendent,
Central Prisons,
Convict Ward,
Puzhal,
Chennai - 600 066.

..Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to pay compensation sum of Rs.30,00,000/- with 12% interest from the date of occurrence to the petitioner for the murder of her husband G.Jayakumar @ Kumar @ Welding Kumar committed on 10.06.2009.



For Petitioner : Mr.P.Vijendran

For Respondents : Mr.K.M.D.Muhilan,
Government Advocate.

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O R D E R

The writ petition is filed to direct the respondents to pay compensation sum of Rs.30,00,000/- with 12% interest from the date of occurrence to the petitioner for the murder of her husband G.Jayakumar @ Kumar @ Welding Kumar committed on 10.06.2009.

2. The petitioner is the wife of the deceased G.Jayakumar @ Kumar @ Welding Kumar, S/o.Ganesan, Life Convict No.2563, aged about 48 years in the year 2009.

3. The petitioner states that her husband was a convict and was in the Central Prison at Puzhal, Chennai. The husband of the petitioner was initially kept in Central Prison, Vellore and subsequently, transferred to the Central Prison at Puzhal, Chennai. The husband of the petitioner was suspiciously died inside the prison.

4. The petitioner raised several suspicious circumstances for the death of her husband inside the prison under the custody of the Prison Authorities.

5. It is contended that even the said information was not provided to the family members of the prisoner immediately. Even as per the Tamil Nadu Prison Rules, the death of the prisoner is to be informed immediately to the family members of the prisoner by the Superintendent of Prisons on duty.

6. The learned counsel for the petitioner contended that there are several violations in dealing with the issue regarding the death of husband of the petitioner.

7. The learned Government Advocate, appearing on behalf of the respondents, made a submission that the matter went upto the National Human Rights Commission, New Delhi and the compensation recommended by the National Human Rights Commission, New Delhi for a sum of Rs.50,000/- was already granted by the Government in G.O.Ms.No.902, Home (Prison V) Department, dated 23.12.2011.

8. The learned counsel for the petitioner also fairly made a submission that the petitioner had already received the compensation of Rs.1,00,000/-. However, such compensation is inadequate and not in commensuration with the allegation of



murder being committed inside the prison.

9. This Court is of the considered opinion that the cause for the death and the nature of death, all requires an elaborate adjudication with reference to the documents and evidences, including oral evidences from the Prison Authorities and other witnesses or inmates inside the prison. Such an elaborate adjudication cannot be undertaken in the writ proceedings by the High Court under Article 226 of the Constitution of India. In such circumstances, quantification of compensation is also difficult and the High Court is not expected to quantify the compensation in an unguided or routine manner, which will result in inconsistency and discrimination amongst the similarly placed victims in respect of all other cases. Just and proper compensation is to be granted in all such cases by the State, as the State being a welfare State.

10. In the present case, admittedly, the death occurred inside the prison and the Prison Authorities are bound to provide answer and the cause for such death. However, mere affidavit in this regard in the writ petition would be insufficient to determine the compensation to be paid to the petitioner-victim.

11. This Court, in a batch of writ petitions viz., WP Nos.35028 of 2012, 8385 of 2014 and 30655 of 2013 dated 29.10.2021, directed the Government to formulate the guidelines/policies for the purpose of grant of uniform compensation to the victims in several such cases, including accident in public places and other deaths occurring in such Public Institutions etc.

12. Under these circumstances, the petitioner, in the event of issuing any such guidelines by the Government, is at liberty to submit an application to the Government for grant of compensation. Even otherwise also, the petitioner is at liberty to approach the Competent Court of Law for claiming adequate compensation by establishing her case in the manner known to law. Thus, the petitioner is having wider avenues for claiming compensation to be paid based on the documents and evidences available and therefore, this Court is of an opinion that the compensation, as such, sought for in the present writ petition for a sum of Rs.30,00,000/-, cannot be considered and the petitioner has to approach the Competent Court of Law/Forum/Authority for eligibility and determination of such compensation. Further, a sum of Rs.1,00,000/- by way of compensation has already been paid.

13. The learned Government Advocate, appearing on behalf of the respondents, brought to the notice of this Court



that disciplinary actions were taken against some of the Prison Authorities.

14. Taking note of all these factors, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Secretary,
Government of Tamil Nadu,
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5. The Superintendent,
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Convict Ward,
Puzhal, Chennai - 600 066.

+lcc to Mr.P.Vijendran, Advocate SR. No. 58094

+lcc to Government Pleader SR. No. 58207

WP NO 28495 of 2011

AD (CO)

PR (29/11/2021)