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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2021

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.8715 of 2021

Mrs.Nagavalli

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Additional Chief Secretary,
Home (Prison) Department,
Government of Tamil Nadu,
Chief Secretariat,
St. George Fort,
Chennai - 600 009.

2.The Director General of Prisons and Correctional Services,
Tamil Nadu Prison Head Quarters,
No.6,, Whennals Road,
Egmore,
Chennai - 600 008.

3.The District Legal Aid Authority,
Nagapattinam District Court Campus,
Nagapattinam District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the third respondent to disburse victim compensation amount as per the Tamil Nadu Victim Compensation Scheme, 2013 based on the application dated 21.12.2020 and 05.03.2021 within the time frame that may fixed by this Court.

For Petitioner : Mr.S.Arokia Maniraj

For Respondents: Mr.A.Damodaran,

Counsel for Government of TamilNadu
[Crl. Side]

O R D E R

This Writ Petition is filed directing the third respondent to disburse victim compensation amount as per the Tamil Nadu Victim Compensation Scheme, 2013, based on the application dated 21.12.2020 and 05.03.2021 within the time frame that may fixed by this Court.



2.The petitioner is the mother of one Dinesh, who was murdered and a case in Cr.No.359 of 2014 for the offence under Section 307 and 302 IPC has been registered by the Inspector of Police, Sembanar Police Station. For that murder the petitioner has filed this writ petition seeking the above said direction.

3.The petitioner hails from a poor family. She had one son and one daughter. Her son viz., Dinesh, who had completed his 12th Standard. During 2014, he was attending the school and during vacations and holidays he used to do small menian work to help and aid the petitioner. The petitioner's son used to go for a work in a Provision Store viz., "New Super Maligai" and one Rajendran was the owner of the store. On 03.09.2014, the said Rajendran and the petitioner's son were there, at that time some unknown persons have entered into the store and assaulted them and the said Rajendran died on the same spot and the petitioner's son was brutally murdered and inflicted with injury and he was taken to hospital on the way he passed away on 04.09.2014. At the time of death the petitioner's son was aged about 20 years.

4.For the death of Rajendran and the petitioner's son a complaint was lodged by the concerned Village Administrative officer of Memmathur Revenue Village and a case in Crime No.359 of 2014 came to be registered. After the death of the petitioner's son, the petitioner's family got shattered and not knowing what to do. The petitioner's son was the main source of income of the petitioner's family. Without that income the petitioner's family were pushed to poverty. The petitioner with great difficulty was able to get the Death Certificate and Legal heir Certificate from the authorities. The Death Certificate could be obtained only on 13.03.2020 and the Legal heir Certificate thereafter on 13.10.2020. Thereafter the petitioner had filed an application seeking compensation of Rs.20,00,000/- from the District Legal Services Authority on 08.03.2021. No action has been taken, hence the writ petition is filed.

5.The learned Government Advocate (Crl.Side) submitted that as per Rule 10 of Tamil Nadu Victim Compensation Scheme, 2013, a claim has to be made by the petitioner within 6 months period from the date of commission of the crime, but no such claim has been made by the victim or his dependents under Section 357-A of the Code and the same to be considered. The petition has to be filed much latter after six months from the date of commission of the offence and the same cannot be entertained. Hence, the District Legal Services Authority, Nagapattinam by his communication in D.No.37/2021 dated 11.01.2021 had rejected and submitted that the representation of the petitioner could not be considered, since there is a time limit. Further, the petitioner not represented the petition with the signature. The



status in Crime No.359 of 2014 is also not known. The District Legal Services Authority had sent a communication to the Superintendent of Police, Nagapattinam to inform the present the status of the case.

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6.The petitioner submitted that her son being killed due to the cut injuries inflicted by the accused on 03.09.2014. The petitioner has produced the copy of the FIR and the post mortem certificate issued by the doctor. In the post mortem certificate, the final opinion is as follows:

"The deceased would appear to have died of complications of multiple heavy cut injuries over region of head due to injuries over vital structures of brain."

7.From the post mortem certificate, it is seen that the petitioner had been brutally attack and murdered, who is a victim in Crime No.359 of 2014. The petitioner's mother with a great difficulty got the death certificate on 13.03.2020, thereafter, the Legal heir Certificate on 13.10.2020. The petitioner being an uneducated rustic villager, the plight and difficulty for her to collect this document is understandable. The victim compensation scheme is a benevolent scheme brought in for the victims of crime as per the Government Order the scheme came into force, by G.O.(Ms).No.1055, Home (Police XII) on 30th November, 2013.

8.The petitioner is eligible for Rs.3,00,000/- for the loss of life of her son Dinesh. Further from the proviso to Rule10 it is stated that no claim made by the victim or the dependants under sub section (4) of Section 357-A of the Code shall be entertained after a period of six months after the date of commission of the crime. Provided that the State or the District Legal Services Authority, if satisfied, for the reasons to be recorded in writing, may condone the delay in filing the claim. The condonation of delay is given in the rule.

9.In this case, the petitioner could obtained the Death Certificate and the Legal heir Certificate only in March and October, 2020 and thereafter in December, 2020, she had filed the petition under Section 357-A (4) before the District Legal Services Authority.

10.Considering the materials and on perusal of the materials, this Court finds that the delay is reasonable and to be condoned.

11.In view of the same, the delay is condoned. The District Legal Services Authority, Nagapattinam shall not be too technical in granting compensation to the petitioner and



directed to consider the plight of the petitioner and to pass appropriate orders. If needed, summon the petitioner and guide her how to present a proper petition and thereafter, to consider the petition and pass appropriate orders.

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12. Accordingly, this Writ Petition stands allowed. No Costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Chief Secretary,
The State of Tamil Nadu,
Home (Prison) Department,
Government of Tamil Nadu,
Chief Secretariat,
St. George Fort,
Chennai - 600 009.

2. The Director General of Prisons and Correctional Services,
Tamil Nadu Prison Head Quarters,
No. 6,, Whennals Road,
Egmore, Chennai - 600 008.

3. The District Legal Aid Authority,
Nagapattinam District Court Campus,
Nagapattinam District.

4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Arokia Maniraj, Advocate, S.R.No. 36313

W.P.No.8715 of 2021

PM(CO)
GN(10/08/2021)