



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.38677 OF 2016

T.M.Arumugam

... Petitioner

Vs.

1. The Secretary to Government,
Home Department,
Secretariat, Fort St. George,
Chennai-9
2. The Director General of Police,
O/o. The Director General of Police.
Mylapore, Chennai-4
3. The Additional Director General of Police,
CBCID,
Pantheon Road, Egmore,
Chennai-600008
4. The Superintendent of Police
Tiruvannamalai District,
Tiruvannamalai.
5. The Inspector of Police,
Seyyar Police Station,
Seyyar,
Truvannamalai District.
6. Mr.Sahabudeen,
Sub-Inspector of Police,
Seyyar Police Station,
Seyyar,
Truvannamalai District.
7. Mr.Thulasi,
Sub-Inspector of Police,
Thoosi Police Station,
Thoosi, Truvannamalai District.



8. The Superintendent,
Government Hospital,
Seyyar,
Tiruvannamalai District.

WEB COPY

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 3rd respondent herein to investigate on the petitioner's complaint dated 08.10.2016 and take action according to law and also direct the 1st respondent herein to pay a compensation of Rs.10,00,000/- for the injuries and pain suffered the petitioner's son namely Saravanan in the hands of the 6th and 7th respondent herein.

For Petitioner	:	Mr.G.Karthikeyan
For Respondents 1 to 5 & 8	:	Mr.C.Selvaraj
For Respondents 6 and 7.	:	No appearance.

O R D E R

The relief sought for in the present Writ Petition is to direct the 3rd respondent to investigate on the petitioner's complaint dated 08.10.2016 and take action according to law and also direct the 1st respondent herein to pay a compensation of Rs.10,00,000/- for the injuries and pain suffered by the petitioner's son namely, Saravanan, in the hands of the 6th and 7th respondents.

2. The petitioner is the father of the victim one Mr.Saravanan aggrieved from and out of the alleged acts of the 6th and 7th respondents in the Police station. The petitioner states that his younger son, namely, Saravanan was working in ICICI Bank, Seyyar. He is also a Town Secretary of Hindu Munnani, an organization which works towards safeguarding the culture and heritage of our country and also works towards unity and equality among Hindus and to abolish untouchability and caste disparity.

3. During Vinayagar Chaturthi Celebration, the Hindus of Seyyar temporarily installed Vinayagar Idols made of paper mesh in several places of Seyyar Town and celebrated each day with a theme. It is contended that the son of the petitioner was taken to Police station and the 6th respondent, Mr.Sahabudeen, the Sub-Inspector of Police came to the petitioner and threatened him by saying that " ask your son to keep out of Hindu Munnani



or else he will have to face several problems and I will see that he is finished off".

4. The petitioner states that on 07.10.2016 at around 04.00 a.m., the 6th and 7th respondents herein came to the house of the petitioner and assaulted his son and also the driver of their lorry, namely, Panneerselvam and took them to the Police Station. They also seized the lorry bearing Registration No.TN 41 R 6909. The petitioner went to Seyyar Police Station and narrates all the subsequent events occurred in the Police station.

5. The petitioner further raised series of allegations against the 6th and 7th respondents, Sub Inspectors of Police, Seyyar and Thoosi respectively and the custodial harassment in the Police station underwent by his son. The petitioner has also enclosed certain photographs in the typed set of papers filed along with the Writ Petition to establish that his son sustained serious injuries during the custody of Police in the Police station.

6. The 5th respondent, Inspector of Police, Seyyar Police Station filed a counter affidavit stating that it is correct that the petitioner has given a petition to the Inspector of Police on 08.10.2016 stating all the averments and requested to take necessary action. On the said petition, a CSR No:464/2016 was given to ascertain the genuineness of the said petition. The 5th respondent took up the enquiry in the above said complaint and on enquiry, he examined 6th respondent one Mr.Suresh, Head Constable, Mr.Vishwanathan, Head Constable, Mr.Kumaran, Gr.I.Constable, one Tr.Sundararaji, Friends of Policer, Tr.Arasu, Head Constable, Tr.Meganathan, Police Constable, Tr.Raj Jayakumar, SI of Police and 7th respondent recorded their statements the 5th respondent asked the complainant to appear before him for enquiry but he did not appear for enquiry.

7. After completion of enquiry it is remanded them the above complaint was given with an ulterior motive to escape from the criminal cases already registered against the petitioner's son and also to learn the Police personal not to proceed further in the said criminal cases. Hence the complaint date 08.10.2016 was closed as "Mistake of Fact". And the same was intimated to the petitioner. On enquiry, it was found that in order to escape from a hurt case registered against the petitioner's son Saravanan in Cheyyar P.S.Crime NO.759/2016, and another case regarding conducting a "Road Roko" registered in Cheyyar P.S. Crime No.933/2016 in connection with the Visarzanam festival" - Immersion of Vinayagar Idols" and taking procession in an



unauthorised route, in which the petitioner's son Saravanan along with 10 Hindu Munnani organizers was also arrested and released on bail on the same evening, and to escape from the case registered in connection with smuggling of Sand without permit, the petitioner has come forward with this Writ Petition containing false, baseless and imaginary averments.

8. In fact, the following cases are pending against the petitioner's son, namely,

- a) Cheyyar P.S.Crime No.759/2016, u/s 294(b), 323, & 506(1) IPC.
- b) Cheyyar P.S.Crime No.933/2016, u/s 143, 188, & 341 IPC.
- c) Cheyyar P.S.Crime No.981/2016, u/s 379, & 430 IPC and the said three cases are under investigation. But, the falsity of this Writ Petition can be seen from the averments made in the petition dated 08.10.2016 given to the Inspector of Police are contrary to the averments / allegations made in this Writ Petition. So, it is clear that the said averments / allegations are the outcome of brain of the mastermind behind the petitioner. So, the averments are made by the petitioner are false, imaginary and made with some ulterior motives.

9. This Court is of the considered opinion that, allegations raised by the petitioner regarding custodial torture is serious. However, the allegations are sturdily denied by the respondent Police. When there is a specific denial of such allegations by the Police Officials, then an adjudication is required to bring out the truth behind the alleged incident. The High Court cannot conduct an elaborate adjudication in respect of such custodial torture in a Writ Petition under Article 226 of the Constitution of India. All such allegations and counter allegations are to be inquired with reference to the document, evidence including oral evidence.

10. Undoubtedly, the rights of the citizens has to be protected. The 5th respondent, Inspector of Police admitted the fact that the petitioner has submitted a complaint and the complaint was entertained by the Inspector of Police. However, the Inspector of Police states that he conducted an enquiry on the 6th and 7th respondents and other Policemen in the Station and found that the allegations are false.

11. This Court is of the considered opinion that, the Inspector of Police conducting an inquiry with reference to the allegations against his own subordinates in the same Police station cannot be relied upon for the purpose of dealing with such nature of allegation of custodial torture. It requires an independent adjudication / enquiry in the hands of the competent forum and the petitioner has to initiate steps to approach the competent forum for the purpose of redressal of this grievances.



12. Beyond this, in such circumstances, the High Court cannot quantify the compensation. The Writ Petition is filed for initiation of action and for a grant of compensation. Grant of compensation would arise only after conduct of inquiry. Thus, the issue ought to be adjudicated before the competent forum / Court of law for the purpose of redressal of grievance of the Writ Petition.

13. This being the factum, the petitioner is at liberty to approach the competent forum / Court of law for the purpose of redressal of his grievances in the manner known to law. The forum / Court of law is bound to consider the period during which the Writ Petition was pending before the High Court for the purpose of condoning the delay, if any such application is filed to condone the delay.

14. With these observations, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

Kan/Shr

To

1. The Secretary to Government,
Home Department,
Secretariat, Fort St. George,
Chennai-9
2. The Director General of Police,
O/o. The Director General of Police.
Mylapore, Chennai-4
3. The Additional Director General of Police,
CBCID,
Pantheon Road, Egmore,
Chennai-600008
4. The Superintendent of Police
Tiruvannamalai District,
Tiruvannamalai.



5. The Inspector of Police,
Seyyar Police Station,
Seyyar,
Truvannamalai District.

6. The Superintendent,
Government Hospital,
Seyyar,
Tiruvannamalai District.

+1cc to Mr.G.Karthikeyan, Advocate, S.R.No.58297

+1cc to the Government Pleader, S.R.No.58534

W.P.No.38677 of 2016

GPL (CO)
RLP (01/12/2021)