



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2021

CORAM:

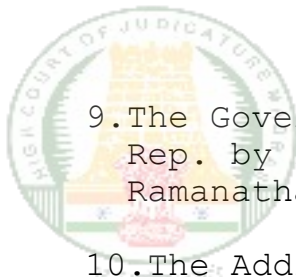
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP (MD) No.7143 of 2017
and
WMP (MD) Nos.5643 & 18794 of 2017**

G.Bhavani : Petitioner

Vs.

- 1.The Home Secretary,
Government of Tamil Nadu,
Secretariat, Chennai.
- 2.The Inspector General of Police
(South Zone),
New Natham Road,
Madurai - 2.
- 3.The Deputy Inspector General of Police,
Rameshwaram Main Road,
Collectorate (Post),
Ramanathapuram District.
- 4.The District Collector,
Ramanathapuram District.
- 5.Mr.Manivannan,
Superintendent of Police,
SP Office, Ramanathapuram.
- 6.Mr.Vijaya Kumar,
Deputy Superintendent of Police,
Thiruvadanai TK,
Ramanathapuram District.
- 7.The Inspector of Police,
Thondi Police Station,
Ramanathapuram District.
- 8.Thangam Muniya Samy,
Sub-Inspector of Police,
Ramnad B.S. Town Police Station,
Ramanathapuram District.



9.The Government General Hospital,
Rep. by its Dean,
Ramanathapuram District.

10.The Additional Director,
CB-CID, No.83, 3rd Cross Street,
Vishalakshipuram, Madurai - 625 014.

11.The Additional Director,
Central Bureau of Investigation,
Rajaji Bhavan, Chennai.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus

- to direct the 10th respondent to hand over the file in Cr.No.291 of 2017 which was registered by the Kenikarai Police Station and Cr.No.111 of 2017 which was registered by the 7th respondent to the 11th respondent for investigation.

- to direct the 1st respondent to take suitable departmental action against the 8th respondent and to place him under suspension in view of the judgment rendered by the Apex Court, Arumuga Servai v. State of Tamil Nadu 2011 (6) SCC 405.

- to direct the 4th respondent immediately to provide relief amount to the petitioner contemplated under Rule 12(4), Annexure I of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989, r/w Amended Act, 2015.

For Petitioner : Mr.P.Vijendran

For Respondents : Mr.S.Ravi,
Standing Counsel for the State
for RR.1 to 4, 7, 9, 10

ORDER

The petitioner has filed this writ petition seeking a direction

- to the 10th respondent to hand over the file in Cr.No.291 of 2017 which was registered by Kenikarai Police Station and Cr.No.111 of 2017 which was registered by Thondi Police Station to the 11th respondent for investigation.

- to the 1st respondent to take suitable departmental action against the 8th respondent and to place him under suspension, in view of the judgment rendered by the Hon'ble Apex Court in **Arumuga Servai v. State of Tamil Nadu**, reported in **2011 (6) SCC 405**.



- to the 4th respondent to immediately provide relief amount to the petitioner as contemplated under Rule 12(4), Annexure I of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989, r/w Amended Act, 2015.

WEB COPY

2. The case of the petitioner is that her husband, Govindan, was taken by three police personnel from their house on 13.04.2017 at about 06.30 pm and was shot dead by the 8th respondent / Sub-Inspector of Police, Ramnad B.S. Town Police Station, Ramanathapuram District. It is also stated that the police personnel took the dead body to the 9th respondent hospital and completed the postmortem without informing and without obtaining any consent from the petitioner or her relatives. Her case is that they belong to Scheduled Caste Community and some of the police officers, who belong to Backward Caste Community, have purposely murdered her husband and therefore, she has to be compensated for the same.

3. Mr.P.Vijendran, learned Counsel for the petitioner submitted that the petitioner's husband, Govindan, was taken only from the house, however, the respondent police have created a story in Cr.No.111 of 2017, as if there was an encounter. According to him, two FIRs were registered pertaining to this incident, one in Cr.No.291 of 2017 on the file of the Kenikarai Police Station and in Cr.No.111 of 2017 on the file of the Thondi Police Station. He further submitted that the police are proceeding in a biased manner and therefore, a fair and impartial investigation has to be conducted and the petitioner and her daughters have to be compensated for the alleged murder.

4. Mr.S.Ravi, learned Standing Counsel for the State submitted that the petitioner's husband, Govindan, is an accused in Cr.No.291 of 2017 on the file of Kenikarai Police Station, wherein, one Kasinathan was kidnapped and a sum of Rs.9,00,000/- was snatched away from him. On 11.04.2017 at about 05.00 pm, when the complainant Kasinathan was proceeding to Ramanathapuram from Keelakarai in his car bearing registration no.TN-65-AC-9464, along with his Driver, Dulkarnai, four persons intercepted the car, assaulted him and robbed the sum of Rs.9,00,000/-, kidnapped him in their white color Tavera car and threw him away near Solanthur. Based on this complaint, a special team was formed and during the investigation, they found that the offence was committed with the help of the complainant's Driver, Dulkarnai and the petitioner's husband, Govindan and his associates.

5. He further submitted that the special team headed by one Thangamuniyasamy, Sub-Inspector of Police has arrested one Chinnaraj on 13.04.2017 and on his information, they spotted the petitioner's husband, Govindan, the main accused in a white color Ambassador car bearing registration no.TAR 9083, proceeding from Thondi to



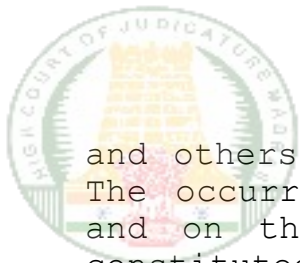
bearing registration no.TN-65-P-6156, intercepted his vehicle near Saveriyar Nagar, Mela Arumbur, Thiruvadanai Taluk. The said accused Govindan got down of the vehicle and assaulted a Grade I Police Constable 1834 Soundarapandian and Sub-Inspector of Police Thangamuniasamy with an Aruval. When the accused tried to attack the Sub-Inspector of Police again, the Sub-Inspector had opened one round of fire at the accused Govindan, in which, he sustained injury and fell down. The police have taken the injured Govindan and the police personnel to the Government Hospital, Thiruvadanai, where the accused Govindan was declared brought dead. For this incident, a case in Cr.No.111 of 2017 was registered on the complaint of the Sub-Inspector of Police, Thangamuniasamy under Sections 279, 294 (b), 332, 307 IPC r/w Section 176(1-A) Cr.P.C.

6. Learned Standing Counsel further submitted that the FIR in Cr.No.111 of 2017 on the file of the Thondi Police Station has been transferred to the CBCID, Ramanathapuram and re-registered as Cr.No.2 of 2017 and was enquired by the CBCID. But they are yet to file the final report. Apart from the enquiry conducted by the CBCID, a judicial enquiry was also ordered by the learned Chief Judicial Magistrate, Ramanathapuram, on 14.04.2017, by nominating one Mr.A.Kannan, then Judicial Magistrate No.II, Ramanathapuram, in-charge of District Munsif cum Judicial Magistrate, Thiruvadanai. He has examined the witnesses and filed a report on 06.09.2019 that the police had opened fire as a self defence as against the petitioner's husband, deceased Govindan. The learned Standing Counsel has also produced a list of cases, in which, the petitioner's husband Govindan was arrayed as an accused. Therefore, he objected for grant of any compensation.

7. As a reply, the learned Counsel for the petitioner by relying upon the decision of the Hon'ble Supreme Court in **Inhuman Conditions in 1382 Prisons**, reported in (2017) 10 SCC 658, submitted that even though the deceased is an accused, as per the dictum laid down by the Hon'ble Supreme Court, he is entitled for compensation. He has also relied upon the Government Order in G.O.Ms.No.359, Public (Law and Order - A) Department, dated 06.04.2015, which provides for financial relief to the victims / legal heirs of the deceased victims, who were tortured and injured by the police / prison officials and also to the incidents of death due to police torture, death due to police firing, rape by police and permanent incapacitation, etc.

8. This Court paid it's anxious consideration to the rival submissions and also to the materials placed on record.

9. The petitioner's husband, Govindan, is shown as an accused in the case in Cr.No.291 of 2017 on the file of the Kenikarai Police Station. In the said incident, the Driver of the complainant, Dulkarnai, along with the petitioner's husband / deceased Govindan



and others have committed a robbery to an extent of Rs.9,00,000/-. The occurrence in Cr.No.291 of 2017 was taken place on 13.04.2017 and on the orders of the higher officials, a special team was constituted headed by the 8th respondent / Sub-Inspector of Police. The special team has also arrested one Chinnaraj, accused in the said case. The said Chinnaraj gave information to the police about the movement of the accused Govindan. Accordingly, the police went in search of the accused Govindan, intercepted his Ambassador car bearing registration no.TAR 9083. But the accused tried to escape by hitting the car of the police. The special team chased him and at a particular place at Saveriyar Nagar, the accused Govindan, who could not move any further with his car, came out of the car and attacked the police personnel with an Aruval, in which, a Grade I Police Constable, one Soundarapandian and the 8th respondent / Sub-Inspector of Police, Thangamuniasamy have suffered injuries.

10. The 8th respondent claims that as a private defense and in order to prevent further attack, he opened one round of fire, in which the deceased sustained injury. The police personnel have also taken the deceased as well as the injured police to the Government Hospital, Ramanathapuram and on the statement of the Sub-Inspector of Police, Thangamuniasamy, the case was registered in Cr.No.111 of 2017 for the offence under Sections 279, 294(b), 332, 307 IPC & Section 176 Cr.P.C. The investigation in Cr.No.111 of 2017 was also transferred to the CBCID, Ramanathapuram and re-numbered as Cr.No.2 of 2017 and pending investigation.

11. Apart from this investigation, a judicial enquiry was also ordered and the learned Judicial Magistrate No.II, Ramanathapuram, has conducted an enquiry under Section 176(1-A) Cr.P.C. and filed a final report that the police have opened the fire as a self defense and two police officials have sustained injury in the said incident.

12. Since the case has already been transferred to the CBCID, this Court is of the view that there is no necessity for ordering for any transfer of investigation to any other investigation agency after four years. However, since the CBCID has not completed the investigation and filed the final report, this Court directs the 10th respondent / Additional Director, CBCID, to ensure that the investigation in Cr.No.2 of 2017 is completed and the final report is filed before the Court concerned within a period of two months from the date of receipt of a copy of this order. A copy of the said final report shall also be furnished to the petitioner / wife of the deceased Govindan. If the petitioner is aggrieved over the final report, it is open to her to file a protest petition before the Court concerned, in the manner known to law and to agitate the same, if so advised.

13. Insofar as the second relief is concerned, since the investigation in Cr.No.2 of 2017 is yet to be completed, it is open to the petitioner to file a protest petition before the Court concerned, in the manner known to law and to agitate the same, if so advised.



to the 3rd respondent / Deputy Inspector of Police to initiate appropriate departmental proceedings on the erring officials depending upon the outcome of the investigation.

14. Insofar as the third relief is concerned, this Court is not inclined to order for any compensation, when the investigation in Cr.No.2 of 2017 is not completed. However, the learned Judicial Magistrate, who conducted an enquiry under Section 176 Cr.P.C has filed a report that the police had opened the fire only as a self defense. The learned Standing Counsel has also brought to the knowledge of this Court that the petitioner's husband Govindan is involved in 25 cases, of which, two cases are for the offence under Section 302 IPC, seven cases are for the offence under Section 307 IPC and three cases are for the offence under Section 397 IPC, etc.

15. In **Inhuman Conditions in 1382 Prisons**'s case (supra), referred to by the petitioner's Counsel, the Hon'ble Supreme Court has held as follows:

"55.... But it is important for the Central Government and the State Governments to realise that persons who suffer an unnatural death in a prison are also victims—sometimes of a crime and sometimes of negligence and apathy or both. There is no reason at all to exclude their next of kin from receiving compensation only because the victim of an unnatural death is a criminal. Human rights are not dependent on the status of a person but are universal in nature. Once the issue is looked at from this perspective, it will be appreciated that merely because a person is accused of a crime or is the perpetrator of a crime and in prison custody, that person could nevertheless be a victim of an unnatural death. Hence, the need to compensate the next of kin."

16. Learned Counsel for the petitioner submitted that the petitioner is having three daughters and in view of this incident, her entire family is affected. It appears that the petitioner has also made a representation to the first respondent in this regard, but the same did not see the light of the day. In such view of the matter as well as the dictum laid down by the Hon'ble Supreme Court, the petitioner is hereby permitted to submit a fresh representation to the respondents within a period of two weeks from the date of receipt of a copy of this order. The first respondent shall consider the same and pass appropriate orders on the representation based on the available materials and in the light of the Government Order in G.O.Ms.No.359, Public (Law and Order - A) Department, dated 06.04.2015, if it is otherwise applicable, within a period of twelve weeks therefrom.

17. In fine, this writ petition stands disposed of. There shall
<https://hcservices.ecourts.gov.in/hcservices/>



be no order as to costs. Pending miscellaneous petitions, if any, shall stand closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

WEB COPY

/ /2021

Sub Assistant Registrar (CS)

gk

To

- 1.The Home Secretary,
Government of Tamil Nadu,
Secretariat, Chennai.
- 2.The Inspector General of Police
(South Zone),
New Natham Road,
Madurai - 2.
- 3.The Deputy Inspector General of Police,
Rameshwaram Main Road,
Collectorate (Post),
Ramanathapuram District.
- 4.The District Collector,
Ramanathapuram District.
- 5.The Inspector of Police,
Thondi Police Station,
Ramanathapuram District.
- 6.The Dean,
Government General Hospital,
Ramanathapuram District.
- 7.The Additional Director,
CB-CID, No.83, 3rd Cross Street,
Vishalakshipuram, Madurai - 625 014.
- 8.The Additional Director,
Central Bureau of Investigation,
Rajaji Bhavan, Chennai.

WP (MD) No. 7143 of 2017
12.07.2021