



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

WP No. 2485 of 2007
and MP Nos.1 & 2 of 2007

A.Kadirvel

... Petitioner

vs.

1. The State of Tamil Nadu,
Rep. By its Chief Secretary,
Fort St.George, Chennai 9.
2. The Home Secretary,
Fort St. George, Chennai 9.
3. The Director General of Police,
Mylapore, Chennai 4.
4. The Superintendent of Police,
Coimbatore District,
Coimbatore.
5. The Director,
Central Bureau of Investigation,
New Delhi.
6. Mr.Radhakrishnan
Formerly Inspector of Police,
Mangalam Police Station, Palladam,
Coimbatore, C/o. & Through
O/o.The Director General of Police,
Mylapore, Chennai 600 004.
7. Mr.Guhan
Formerly Sub Inspector of Police,
Mangalam Police Station, Palladam,
Coimbatore, C/o. & Through
O/o.The Director General of Police,
Mylapore, Chennai 600 004.
8. Mr.Chandran
Formerly Head Constable,
Mangalam Police Station, Palladam,



Coimbatore, C/o. & Through
O/o.The Director General of Police,
Mylapore, Chennai 600 004.

9. Mr.Janardhanan

Formerly Head Constable,
Mangalam Police Station, Palladam,
Coimbatore, C/o. & Through
O/o.The Director General of Police,
Mylapore, Chennai 600 004.

... Respondents

R6 to R9 Impleaded as per order dated 02.06.2014
by MMSJ in MP 1 of 2013 in WP 2485 of 2007

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 4 to pay to the petitioner, compensation of a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) together with interest at 18% per annum w.e.f. 31.05.2005 till repayment, to prosecute the delinquent policemen for the various offences committed by them by entrusting the investigation to the 5th respondent and to take disciplinary action against the police personnel and others responsible for th wrongful confinement, illegal detention, torture, ill-treatment of the petitiner.

For Petitioner : Mr.Y.Kavitha
for M/s.P.V.S.Giridhar Associates

For Respondents : Mr.U.Bharanidharan,
Addl. Government Pleader, for R1 & R2

Mr.R.Kishore Kumar,
Government Advocate for R3 & R4

Mr.K.Srinivasan,
Special Public Prosecutor (CBI) for R5

Mr.V.P.Sengottuvel, for RR 6 to 8

O R D E R

This Writ Petition has been filed seeking for payment of compensation by the respondents to the petitioner on the ground that the petitioner was subjected to custodial torture as a result of which he sustained grievous injuries.

2. Heard Ms.Y.Kavitha, learned counsel for M/s.P.V.S.Giridhar Associates, appearing for the petitioner, Mr.U.Bharanidharan, learned Additional Government Pleader



appearing for respondents 1 and 2, Mr.R.Kishore Kumar, learned Government Advocate for respondents 3 and 4, Mr.K.Srinivasan, Special Public Prosecutor (CBI) appearing for the fifth respondent and Mr. V.P.Sengottuvel, learned counsel appearing for the respondents 6 to 8.

3. The petitioner has made certain serious allegations in the affidavit as to how the Police dragged him from his house and beat him after taking him into custody and thereby, resulting in severe fracture in both the arms and legs. It is under these circumstances, the petitioner has sought for the payment of compensation by the respondents.

4. Counter affidavit has been filed by the respondents and they have denied the fact that the petitioner was subjected to custodial torture and they have taken a stand that the petitioner had sustained injuries by falling into a ditch and accordingly the respondents have denied their liability and have sought for the dismissal of the Writ Petition.

5. The wife of the petitioner had sent a complaint to the State Human Rights Commission and the Human Rights Commission had an opportunity to examine the parties and also the Doctors who gave treatment to the petitioner. The Human Rights Commission after considering the materials available before the Authority, came to a conclusion that the petitioner sustained injuries by falling into a ditch when he attempted to escape from the Police. This order was passed by the Human Rights Commission on 27.04.2011.

6. In cases where compensation is claimed by way of filing a Writ Petition, this Court has to first examine as to whether the matter involves adjudication on disputed facts. In such cases, the parties will have to be relegated before the Competent Civil Court, since those cases will necessarily involve appreciation of evidence. It is only in those cases where there is no dispute on facts or where the facts are glaringly apparent, this Court can exercise its jurisdiction and order compensation.

7. In the present case, the State Human Rights Commission had an opportunity to go into the entire dispute and a factual finding has been given to the effect that the petitioner did not sustain injuries due to the custodial torture. This order has also become final. When such factual finding is rendered by the Human Rights Commission, it will not be appropriate for this Court to go into the facts once again and render a finding. In the present case, the nature of allegations surely requires recording of evidence. This evidence should be analysed and appreciated and only thereafter a finding can be rendered. This



process cannot be under taken by this Court exercising its jurisdiction under Article 226 of the Constitution of India.

8. In the light of the above and after taking into consideration the facts and circumstances of the case, this Court is of the considered view that the compensation sought for by the petitioner cannot be granted by this Court in this Writ Petition. However it will be left open to the petitioner to seek for compensation before the Competent Court and the time spent before this Court shall be given credit under Section 14 of the Limitation Act. Except giving this liberty no further orders can be passed in this Writ Petition.

9. This Writ Petition is disposed of in the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

jv

To

1. The Chief Secretary,
Secretary to Government,
Fort St.George, Chennai 9.
2. The Home Secretary,
Fort St. George, Chennai 9.
3. The Director General of Police,
Mylapore, Chennai 4.
4. The Superintendent of Police,
Coimbatore District, Coimbatore.
5. The Director,
Central Bureau of Investigation, New Delhi.

+1cc to Mr.V.P.Sengottuvel, Advocate, S.R.No.34420

WP No. 2485 of 2007
and MP Nos.1 & 2 of 2007

EV(CO)
SB(01/07/2022)