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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14420 of 2016

G.Babu

... Petitioner

Vs

- 1.The District Collector
Perambalur, Perambalur District.
- 2.The Inspector General of Police,
Central Zone, Tiruchirapalli.
- 3.The Inspector of Police
Mangalamedu Police Station
Perambalur District.
- 4.The Sub Inspector of Police
Mangalamedu Police Station
Perambalur District.
- 5.Kulanji
Eraiur-Panchayat President,
Eraiur Village,
Veppanthattai Taluk
Perambalur District.
- 6.Chinnadurai
Eraiur-Panchayat Vice - President
Eraiur Village, Veppanthattai Taluk
Perambalur District.
- 7.Jayaraman
Counsellor
Eraiur Village
Veppanthattai Taluk,
Perambalur District.
- 8.Vijayakumar
Eraiur Village, Veppanthattai Taluk
Perambalur District.



9.The Block Development Officer,
Veppanthattai Taluk,
Perambalur District.

... Respondents

[R9 suo motu impleaded vide order
dated 15.11.2021 made in this WP]

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 8 to compensate the petitioner's family for causing death of the Petitioner's Mother Vijaya due to the negligent, lethargic and irresponsible act of the respondents 5 to 8 further direct the respondents 1 to 4 to take appropriate action against respondents 5 to 8 for their lethargic and irresponsible act which has cause the death of the petitioner's mother.

For Petitioner : Mr.B.Balavijayan

For Respondents

R1 to R4 & R9 : Mr.M.Rajendiran
Additional Government Pleader
R5 : Mr.G.Gubendhiran
R6 : Mr.C.Sivakumar
R7 : Mr.G.Padmanapan
R8 : No appearance

O R D E R

Writ of Mandamus has been filed to direct the respondents 1 to 8 to compensate the petitioner's family for causing death of the petitioner's mother Vijaya due to the negligent, lethargic and irresponsible act of the respondents 5 to 8 further direct the respondents 1 to 4 to take appropriate action against respondents 5 to 8.

2.The petitioner states that they hail from a poor family and a native of Eraiyur Village. The petitioner and his mother were the agricultural coolies and the father of the petitioner died 15 years back from the date of filing of the writ petition. The source of income for the petitioner and their family is agriculture and they have no other source of income. The petitioner got married and living with his wife and mother jointly. The mother of the petitioner used to go for agricultural work everyday. There was a huge problem in the Village with regard to the stray dogs. The District Administration took steps to control the outnumbered population of stray dogs by catching and sterilizing them. The same was



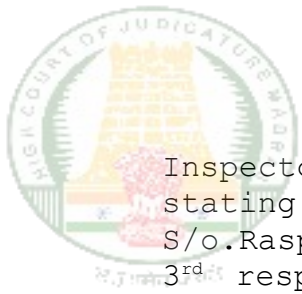
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opposed by the Animal Welfare Organization during the relevant point of time. The District Administration deputed the said work to the Local Village Panchayat. As such, the respondents 5 and 6 engaged the 8th respondent who belongs to "Narikuravar Community" to shoot out the stray dogs wandering on the streets.

3. On 25.02.2015 at about 9.30 p.m., the respondents 5 to 7 along with the 8th respondent shot down the stray dogs in the Village. During that time, the mother of the petitioner was doing her household works. The 8th respondent randomly shot down the stray dogs without aiming or without any concern, he shoot the mother of the petitioner and she sustained serious injuries in her foot. Immediately, she was taken to the Government Hospital, Perambalur by the respondents 5 to 7 but they have not even disclosed the fact in the Hospital. When the petitioner returned home, he was informed about the incident. The petitioner made an attempt to inform the incident to the respondents 3 and 4 but the respondents 5 to 7 stopped him. Later on, the mother of the petitioner discharged after three days. Subsequently, the mother of the petitioner suffered respiratory problems and she died. The medical report and during the course of postmortem, a small bullet which is used in country gun, more particularly, by the Narikuravar community, was found inside her foot where she sustained injury. The bullet contained some poison which had ultimately taken the life of the mother of the petitioner. When the mother of the petitioner was taken to the Government Hospital by the respondents 5 to 7 on 25.02.2015, the bullet was not removed from the leg of the mother of the petitioner. She was provided with treatment only for the injury and was discharged. The petitioner made an attempt to register a complaint against the respondents 5 to 8 to the Police but he was stopped and threatened by the persons. The police registered a FIR and the same was closed under Section 174 Cr.P.C.. The respondents 5 to 8 agreed to compensate for their act which has not been done till today. The petitioner states that the respondents 3 and 4 are hand-in-glove with the respondents 5 to 7 and they are highly influential persons.

4. The petitioner states that in view of the fact that he is a poor agricultural coolie and the respondents 5 to 8 are powerful persons in the Village and the officials are also colluded with these respondents, he could not able to secure any justice from these persons and therefore, he has chosen to file the present writ petition.

5. The writ petition was filed in the year 2016. The



Inspector of Police/3rd respondent filed a counter affidavit stating that the respondents 5 to 7 engaged one Ramadurai, S/o.Rasputh, to shoot out the stray dogs in that Village. The 3rd respondent further admitted the fact that the petitioner appeared before the Police Station and given a complaint on 10.03.2015 at 13.00 hours. The Police also registered a FIR and recorded the statement. During the course of investigation, the 3rd respondent found that the respondents 5 to 7 arranged to shoot the stray dogs in the Village and about 15 villagers were treated for dog bites. Thereafter, the case has been altered from Section 174 Cr.P.C. to Section 304(ii) of IPC r/w. 25(1)(a) of Indian Arms Act. The Inspector of Police took up the investigation and probed the case on the basis of the facts available. The Inspector of Police seized the country made fire arm from the 8th respondent and recorded the statement. On 15.03.2016, the fire arm was remanded to judicial custody with a request to send the weapon for Ballistic expert's examination. The respondents 5 to 8 were granted anticipatory bail by the High Court.

6.The writ petition was filed in the year 2016 and no progress has been made in the criminal case. When the matter is taken up for final hearing, this Court directed the Inspector of Police and the Block Development Officer to file status report and counter affidavit.

7.The Inspector of Police filed a status report stating as follows:

STATUS REPORT FILED BY 3rd RESPONDENT/ P.JAYALAKSHMI,
INSPECTOR OF POLICE. MANGALAMEDU POLICE STATION,
PERAMBALUR DISTRICT

I, P.Jayalakshmi D/o. Panner selvam, Hindu, aged 44 years, presently working as Inspector of Police, Mangalamedu Police Station, Perambalur District and the present Investigation Officer of this case and also 3rd Respondent herein and as such I am well acquainted with the facts and circumstances of this case. Based on the available records, I am filing this Status Report before this Honourable High Court, Madras.

1. It is submit that based on the complaint given by G. Babu petitioner herein as his mother Vijaya (45/2015) died at 22.00 hours on 09.03.2015 at Annai Hospital Perambalur the case was registered by Tr. K.Kathiresan, Special Sub Inspector of Police in Mangalamedu Police Station in



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Crime.No.87/2015 u/s 174 CrPC on 10.03.2015 13.00 hours and Original FIR along with complaint were sent to Thasildhar Veppanthattai, Perambalur District.

2. It is submit that immediately after registering the case Tr. K.Kathiresan, Special Sub Inspector of Police, Mangalamedu Police Station went to the scene of occurrence, drew rough sketch, prepared observation Mahazar, conducted inquest in the presence of witnesses, examined the following witnesses and recorded their statements

- | | |
|-------------------|--|
| 1. Ramachandran | |
| 2. P. Jayaraman | |
| 3. Natesa Udaiyar | Inquest Witnesses |
| 4. Ramesh | |
| 5. S. Murugesan | |
| 6. Babu | - Defacto Complainant and stated same version of complaint |
| 7. S. Murugesan | Accompanying with Defacto |
| 8. Solaimuthu | -Complainant at time of lodging |
| 9. Karthikeyan | complaint and corroborated with Defacto Complainant |
| 10. Sekar- | Corroborated with Defacto Complainant |
| 11.P. Murugesan | |
| 12. Subramaniyan- | Observation Mahazar Witnesses |

and he has sent a requisition letter to conduct post mortem to find out cause of death.

3. It is submit that during the course of investigation Tr. K.Kathiresan, Special Sub Inspector of Police, came to know from his secret investigation that the deceased Vijay died due to balrus suffered a wound on the foot of the deceased. Also, he came to know from investigation that in Eraiyur Village more than 20 People have been bitten by a rabid dog so that on 25.02.2015 Kolanchi, Village Panchayat President, Chinnadurai, Vice President and Jayaraman, Union Councillor have arranged one Ramadurai from Narikkuravar Community to shoot the street rabid dog. When that man short the



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rabid dog by his country gun and it was missed the mark and ballast short from it on the wall and one balrus from it went off and suffered a wound on the foot of deceased Vijaya. On that same day she was submitted at Government Hospital, Perambalur and took treatment. Because of requesting of above said 3 persons namely Kolanchi, Chinnadurai & Jayaraman the Defacto Complainant has not preferred any complaint before the police and he discharged his mother from the hospital.

4. I submit that Tr. K.Kathiresan, Special Sub Inspector of Police, examined the following witnesses further and recorded their further statements.

- 1) Babu
- 2) Solaimuthu
- 3) S. Murugesan
- 4) Karthikeyan
- 5) Sekar

all witnesses given statements about the real incident that took place on 25.02.2015.

5. I submit that Tr. K.Kathiresan, Special Sub Inspector of Police, based on his first investigation, he has altered on 11.04.2015 from the section 174 of CrPC @ 304 (ii) of IPC r/w 25(i)a of Indian Arms Act and sent section alteration report to the Judicial Magistrate Court, Permabalur. He has also forwarded cased diary file before the Inspector of Police for further Investigation.

6. I submit that after took, investigation, on 28.08.2015 Tr. J. Cetric Manuel, then Inspector of Police, Mangalamedu Police Station, proceeded to arrest the accused 1) Ramadurai, 2 Kolanchi, 3) Chinnadurai & 4) Jayaraman and he came to know that the accused released on anticipatory bail as per the order in CrI.OP.No. 18741 of 2015 on the file of the Hon'ble High Court of Madras and he has seized country made gun (SBML 57 inches length) from the accused Ramadurai at his residence in the presence of witnesses Anbazhagan and Ashok. Also, he has sent the gun to Forensic Sciences Department, Chennai for examination of the gun (Material Object) and got chemical analysis report from Deputy Director & Firearms Expert ic Ballistics Division , Forensic Sciences



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Department, Chennai 4 dated 27.06.2016. Also, one of the accused Ramadurai died on 26.06.2021.

7. I submit that now I am Inspector of Police, Mangalamedu Police Station and I have received a report pertaining to the periods of post in local bodies of accused Kolanchi, Chinnadurai and Jayaraman from The Block Development Officer, Veppanthattai Taluk, Perambalur District and the report revealed that accused Jayaraman elected as union councilor, of Veppanthattai Panchayath Union for the period of 25.10.2011 to 24.10.2016. Accused Kolanchi, elected as Village Panchayath President of Eraiyur Panchayath for the period of 25.10.2011 to 24.10.2016 and Chinnadurai elected as Village Panchayath Vice President of Eraiyur Panchayath for the period of 25.10.2011 to 24.10.2016.
8. I submit that I have received opinion from the doctor dated on 28.12.2021 as to cause of death - The deceased would appear to have died of Post - Mortem finding were consistent with Hospital treatment records and clinical diagnosis of cause of death due to sudden Cardio - Respiration arrest and there was evidence of surgical removal foreign body which was present inside the Right foot.
9. I submit that from the Chemical Analysis Report and opinion as to cause of death from the Doctor it has to be completed the investigation and final report to be filed shortly.

8.The Block Development Officer/9th respondent filed a counter affidavit categorically admitting the incident in paragraphs 4 to 6 of the counter which reads as under:

"4.I submit that on our enquiry, it is came to know that due to Berries dog in Eraiyur Pt. it was decided by the formerly President of Eraiyur Mr.Kolanji, Vice President Mr.Chinnadurai and Union Councilor Mr.Jeyaraman have a discussion together and fixed one person Narikurava named Ramadurai on 25.02.2015 for shooting the dogs during 10.00 p.m. On that day the deceased person namely Vijaya came out of her house by hearing noise in the land. While shooting the dog one ballras came out the gun and reflected from the wall and injured leg of the Vijaya and got injured.

5.The enquiry further reveals that as soon as



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the person Vijaya was admitted in the Govt. Hospital Perambalur as in patient the treatment was given to her. After a fraction of days she was discharged from the hospital and went to home. Also she has taken treatment for Asthma and Leprosy for a long time.

6.I submit that on 09.03.2015 by evening 4.00 pm Vijaya got severe pain in his leg and as per her son's request she was admitted in the Pvt. Hospital name Annai Nursing Home at Perambalur for treatment and requested the doctor to have surgery in her leg to remove the small piece of ballrus. After 4 hours of completion of surgery she got severe chess pain and she was given treatment for the same. In the mean while in treatment she was died by 10.00 p.m. of 09.03.2016. Due to some suspicion of the death, postmortem was made in the case of Vijaya.

9.The 6th respondent filed a counter stating that he was no way connected with the alleged incident.

10.However, the status report as well as the counter affidavit filed by the Inspector of Police and the Block Development Officer categorically reveals that the respondents 5 to 7 instructed the 8th respondent to shoot out the stray dogs in that Village and while carrying out the instructions of the respondents 5 to 7, the mother of the petitioner sustained bullet injuries and she was admitted in the hospital. Unfortunately, the bullet was not removed immediately and subsequently, she died on account of the fact that the bullet injury which was inside the leg is the cause for the death. The medical report also revealed that a small bullet which was used in the country gun, more particularly, by the Narikuravars was found in her foot and the said bullet was not removed at the time of providing treatment in Government Hospital on 25.02.2015. This being the factum established, the criminal cse registered must go on and the 3rd respondent should urge the criminal Court of law to proceed with the matter as expeditiously as possible.

11.As far as the writ petition is concerned, the petitioner could able to establish a prima facie case and the death of the mother of the petitioner occurred due to the illegal operation conducted by the respondents 5 to 8 by shooting the stray dogs in that Village. Shooting the stray dogs itself is an illegal act. The respondents 5 to 7 engaged the 8th respondent and thereby committed the act of illegality and an offence. The



prosecution has been initiated and it is for them to defend their case before the Competent Court of law. However, the petitioner is entitled for compensation as the 5th respondent is the President and the respondents 6 and 7 were the Councilors.

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12.It is an unusual incident where the responsible Panchayat President and the Councilors have engaged the 8th respondent for shooting out the stray dogs in the Village. The very operation itself is illegal and further the bullet removed from the mother of the petitioner during postmortem confirms that the death occurred due to the bullet injuries. Under these circumstances, this Court is inclined to consider the case of the petitioner for grant of compensation. Unfortunately, the official respondents 1 to 4 have not shown an sensitiveness in this matter nor initiated appropriate immediate action, contrarily they have slowed down the actions and thereby colluded in a passive manner. Even the passive collusion of the public authorities can never be tolerated. The illegal operations made by the respondents 5 to 8 were not seriously taken nor immediate actions are initiated.

13.This being the factum established, the respondents 5 to 7 are directed to jointly pay a sum of Rs.5,00,000/- [Rupees Five Lakhs only] to the petitioner towards compensation. Further, the first respondent is directed to pay a sum of Rs.5,00,000/- [Rupees Five Lakhs only] to the petitioner. Thus, the petitioner is entitled for a total compensation of Rs.10,00,000/- [Rupees Ten Lakhs only]. The respondents 1, 5, 6 & 7 are directed to settle their respective portion of the compensation in favour of the writ petitioner within a period of eight weeks from the date of receipt of a copy of this order. The amount of compensation is to be shared between the legal heirs of the deceased mother of the petitioner equally and in this regard, the petitioner is directed to furnish legal heir certificate and the particulars of the legal heirs to the first respondent District Collector within a period of four weeks from the date of receipt of a copy of this order.

15.With these directions, the writ petition stands allowed.
No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector
Perambalur, Perambalur District.

2.The Inspector General of Police,
Central Zone, Tiruchirapalli.

3.The Inspector of Police
Mangalamedu Police Station
Perambalur District.

4.The Sub Inspector of Police
Mangalamedu Police Station
Perambalur District.

5.The Block Development Officer,
Veppanthattai Taluk,
Perambalur District.

+1cc to Mr.C.Sivakumar, Advocate SR.No.486
+1cc to the Government Pleader SR.No.651

W.P.No.14420 of 2016

NR(CO)
GN(25/01/2022)