



W.P.(MD).No.6218 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 16.08.2022

ORDER PRONOUNCED ON : 23.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

**W.P.(MD).No.6218 of 2013
and MP(MD).Nos.1 & 2 of 2013**

Ratna Kumar

....Petitioner

Vs

1.The State of Tamil Nadu
Represented by its Home Secretary
Fort.St.George
Chennai

2.The Director General of Police
Santhome
Chennai

3.The Commissioner of Police
Tirunelveli City
Tirunelveli District

4.Mrs.Lakshmi Prabha
The Inspector of Police
All Women Police Station
Palayamkottai
Tirunelveli

5.Jelin Selva

....Respondents



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Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to initiate disciplinary and penal action against the fourth respondent for the custodial violence inflicted by her on the petitioner and his family members and direct the respondents 1 to 4 to pay compensation for such custodial torture within the period that may be stipulated by this Court.

For Petitioner : Ms.Jesima Yasmin
For M/s.Ajmal Associates

For R1 to R4 : Mr.D.Sasikumar
Additional Government Pleader

For R5 : Mr.K.Sudalayandi

ORDER

The present writ petition has been filed seeking a writ mandamus directing the respondents 1 to 3 to initiate disciplinary action as against the fourth respondent herein for custodial violence inflicted by the said respondent on the petitioner and his family members and direct the respondents 1 to 4 to pay compensation for such custodial torture.

2. According to the petitioner, his marriage was solemnized with the fifth respondent herein on 24.08.2011. After marriage, the fifth respondent insisted the petitioner to live separately away from his parental home. Since the petitioner had refused to heed such a demand, the fifth respondent had



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threatened to lodge a criminal case as against the petitioner and his family members alleging demand of dowry.

3.The learned counsel for the petitioner had contended that the fifth respondent had left the matrimonial home and started living with her parents. Thereafter, the fifth respondent had started harassing the petitioner and his family members by lodging a criminal case against the petitioner. Hence, the petitioner was constrained to apply for divorce in IDOP.No.162 of 2012 on the file of the Principal District Court, Tirunelveli. While the said petition was pending, a criminal complaint was lodged by the fifth respondent herein before the fourth respondent in Crime No.26 of 2012 as against the petitioner and his parents alleging commission of offence under Sections 498(A), 294(b) and 506(ii) I.P.C r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

4.The learned counsel for the petitioner had further contended that on the basis of the said complaint, the fourth respondent started to harass the petitioner and his family members and the fourth respondent had threatened the petitioner to convey the property standing in the name of the petitioner to the name of the fifth respondent herein. He had further contended that the fourth respondent had visited the petitioner's house along with his



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subordinates and abused and insulted the petitioner. When the petitioner had refused to transfer his property in favour of the fifth respondent, the fourth respondent had arrested the petitioner. Thereafter, the petitioner was taken to All Women Police Station, Tirunelveli on 24.12.2012 and he was subjected to third degree torture by the fourth respondent police and her subordinates.

5.The learned Counsel had further contended that the petitioner was brutally attacked and his parents was also taken on custody. Thereafter, he was produced before the Magistrate and at the time of production, he was threatened that he should not whisper anything about the physical torture. Hence, the petitioner did not say anything to the Judicial Magistrate relating to the physical torture meted out by him through the fourth respondent herein.

6.The learned counsel had further contended that after the petitioner was remanded to Judicial Magistrate, the fourth respondent had severely beaten the petitioner and directed him to convey the properties. He was transferred to Central Prison, Palayamkottai where also he was brutally attacked at the instance of the fourth respondent herein. According to the petitioner, he was released on bail on 12.12.2012. Due to the brutal attack, he developed epilepsy and he was admitted in the Prison Hospital and thereafter, he was referred to Government Medical College Hospital, Tirunelveli.



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According to the petitioner, while he was admitted to a private hospital, it was found that his spinal cord and cranium had been seriously affected and therefore, he had developed epilepsy. He had further contended that due to physical torture made by the fourth respondent, he has sustained grave injuries and he had demanded a departmental enquiry as against the fourth respondent and also for compensation for such custodial torture.

7.The learned counsel for the petitioner had further contended that the petitioner had filed an additional typed set of papers on 16.08.2022 along with supporting affidavit. In the said affidavit, the petitioner has submitted that he was taken to Police Station on 26.09.2012 and subjected to custodial torture and thereafter, he was remanded to Judicial Magistrate only on 28.09.2012. Though the petitioner had stated about the torture to the remand Magistrate, the Judicial Magistrate has falsely recorded that there was no complaint as against the police.

8.The learned counsel had further contended that he was convicted in Crime No.26 of 2012 which culminated in C.C.No.361 of 2013 on the file of the Judicial Magistrate, Additional Mahila Court, Tirunelveli. The petitioner had filed an appeal in C.A.No.1 of 2018 and the same is pending. The petitioner had further contended that he was remanded to Judicial Magistrate



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and he was not taken to the Government Hospital, but he was admitted in the Prison Hospital from 28.09.2012 to 05.10.2012. His medical condition was also not informed to his parents. Only after the Prison Hospital authorities found that the injury cannot be cured, he was referred to the Government Hospital, Tirunelveli on 06.10.2012. The MRI scan taken in the Government Hospital would clearly reveal that there are blood clots. He was discharged from the Government Hospital on 16.10.2012. In support of the said contention, the writ petitioner had filed the medical records of the Government Medical College Hospital, Tirunelveli which were obtained by him through RTI Act.

9.Per contra, the learned counsel for the respondents had contended that the fourth respondent has registered a criminal case as against the writ petitioner based on the complaint lodged by her wife namely the fifth respondent herein. He was arrested on 28.10.2012 and he was immediately produced before the Judicial Magistrate on the same day and he was remanded to Judicial custody. The petitioner was admitted to Government Hospital on 06.10.2012 and he was discharged on 16.10.2012. He had further contended that even as per writ affidavit, there are no physical injury or fracture to the writ petitioner. After being released on bail on 16.10.2012, the petitioner has chosen to lodge a complaint on 07.01.2013 to the District



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Collector, Tirunelveli. In the said complaint, there are no allegation about the custodial torture or physical violence as against the writ petitioner. In the counter, the fourth respondent had denied all the allegations as against her. Hence, he prayed for dismissal of the writ petition.

10.I have considered the submissions made on either side and perused the materials available on record.

11.There is no dispute that the petitioner is the husband of the fifth respondent and there was some matrimonial dispute between them. As per the original affidavit filed by the writ petitioner, he was subjected to physical torture in the police station and after remand, while on his way to Central Prison, he was brutally attacked. The petitioner has further contended that his spinal cord and cranium have been seriously damaged in the said assault. He had developed epilepsy only because of the said injuries. Hence, he prayed for departmental action as against the fourth respondent and sought for compensation. However, in the additional affidavit, the petitioner had stated that he was illegally taken on custody on 26.09.2012 itself, but he was produced before the Judicial Magistrate only on 28.09.2012.



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12.A perusal of the records filed along with the writ petition and the additional typed set of papers would not divulge any proof to show that the petitioner was actually taken into custody on 26.09.2012. In the original affidavit as well as in the additional affidavit, the petitioner has sought that despite being physical attack, he did not divulge anything before the Magistrate. Hence, the allegation of the petitioner as against the Magistrate for not recording his statement is not legally sustainable.

13.According to the petitioner, he was subjected to physical torture in the police station before remand and after remand on his way to the Central Prison. It could be seen from the medical records that the petitioner has not suffered any fracture. No injury has been recorded either by the Prison Hospital Authorities or by the Doctors of the Government Medical College Hospital, Tirunelveli. The medical records produced by the writ petitioner would only indicate that he was admitted for epilepsy.

14.This Court is not in a position to arrive at a finding whether such epilepsy was due to the alleged physical attack as against the petitioner or not. The petitioner had further contended that after being let out on bail, he was admitted to a private hospital in which it was found that his spinal cord and cranium had been seriously damaged. However, no medical records have



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been produced before this Court. If really the petitioner had been subjected to any custodial torture in the police station before remand or after remand on his way to the Central Prison, certainly that would have been reflected in the complaint made by him on 07.01.2013. The complaint dated 07.01.2013 is the first complaint lodged by the writ petitioner as against the police authorities and was addressed to the District Collector, Tirunelveli. A perusal of the said complaint indicates that the fourth respondent is torturing the petitioner and his aged parents that she would foist a false case, if the petitioner did not settle all the properties in the name of his wife and to live with his wife separately away from the parents. The petitioner had further stated that he apprehended torture to his life and his parents' life because of the fourth respondent herein. This complaint does not divulge any custodial torture at any point of time from the fourth respondent herein.

15.The original case of the petitioner, on 07.01.2013 reveals allegation of some kind of threat by the fourth respondent herein to settle the matrimonial dispute. It got developed into a custodial torture in the police station in the writ affidavit. In the additional affidavit, it has been further developed that he was illegally taken into custody on 26.09.2012 and was remanded to Judicial Custody only on 28.09.2012. Apart from this, no medical records have been produced to show that he was injured on being subjected to custodial torture.



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16. In view of the above said fact, this Court is not inclined to accept the case of the petitioner that he was subjected to custodial torture by the fourth respondent herein. The writ petition is devoid of any merits and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Internet : Yes/No
Index : Yes/No
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Chennai

3. The Commissioner of Police
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4. Mrs. Lakshmi Prabha
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Pre-delivery order made in

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