



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2022

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P(MD)No.9684 of 2019

R.Rajendran

... Petitioner

Vs.

1.The Secretary to Government,
Home Department (Police),
Fort St. George,
Chennai-600 009

2.The Director General of Police,
Chennai.

3.The Superintendent of Police,
Theni District.

4.The Deputy Superintendent of Police,
Theni Sub Division, Theni,
Theni District.
(Crime No.355/2009).

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, directing the respondents herein to pay compensation of Rs.50.00 lakhs to the petitioner for illegal confinement of petitioner, his wife and son from 23.09.2009 to 14.10.2009 i.e., 22 days and also to take necessary action against the 4th respondent within the time stipulated by this Court.

For Petitioner

: Mr.C.Jeganathan

for M/s.Veera Associates

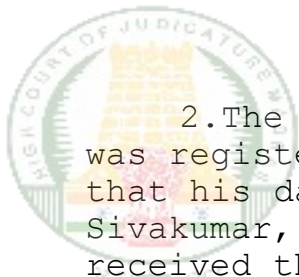
For Respondents

: Mr.A.Thiruvadikumar

Additional Public Prosecutor

ORDER

This writ petition has been filed seeking compensation for the mental agony, harassment faced by the petitioner in view of arrest by the fourth respondent police in Cr.No.355 of 2009, on the file of the Veerapandi Police Station, Theni District.



2.The short facts of the case is that on 22.09.2009 the case was registered based on the complaint given by one Ramasamy alleging that his daughter Deepa was given in marriage three years ago to one Sivakumar, S/o.Rajendran and they have a female child. While so, he received the telephone call from the third parties that his daughter Deepa committed suicide on 22.09.2009 at early hours. Since he suspected the death of his daughter, he has given a complaint. Accordingly, case under Section 174 Cr.P.C., was registered and later altered into Sections 498(A) and 306 of IPC against Sivakumar, the husband of the deceased, Rajendran, father-in-law of the deceased and Mahalakshmi, mother-in-law of the deceased and one Rajkumar, brother-in-law of the deceased. On the same day, they were arrested and remanded to judicial custody. Suicide note was also recovered, in which, the deceased Deepa has blamed her parents for her inevitable decision.

3. The said suicide note was sent for handwriting expert opinion and opinion was received on 30.03.2011, wherein, the expert has opined that the suicide note has been written by the deceased. The petitioner and family members were arrayed as accused and got bail after 23 days. The Investigating Officer being satisfied that the petitioner's family members are not connected in death of Deepa, closed the Cr.No.355 of 2009. It is also to be noted that pursuant to the complaint given by the brother-in-law of the deceased, the case was registered in Cr.No.494 of 2009 against the parents of the deceased Deepa. That case also came to be closed as 'mistake of fact'.

4. The grievance of the petitioner is that due to registration of case and false investigation without giving credence to the suicide note, the petitioner and his family members were arrested and they were tarnishing of their reputation and hence, he is entitled for compensation.

5. The learned Additional Public Prosecutor appearing for the respondents would submit that on receipt of the complaint reporting un-natural death of Deepa, the respondent police has registered a case in Cr.No.355 of 2009 since her death was within 7 years of marriage. The police has conducted investigation and prima facie materials indicated the role of the in-laws in the death. Therefore, the case was altered against them based on the materials collected and four of them were arrested. The suicide note recovered from the scene of crime was suspected by the family members of Deepa as fake. Therefore, to ensure whether it was written by Deepa, the Investigating Officer has forwarded the suicide note to the Forensic Lab for handwriting expert opinion. Soon after receiving of the handwriting expert opinion, the case against the petitioner and his family members was closed. The bonafide action taken in the course of discharging the duty by the Investigating Officer is protected under law and therefore, neither the Investigating Officer in person



6. This Court fully satisfied with the submission made by the learned Additional Public Prosecutor.

7. From the records, this Court find no iota of malafide in the course of investigation. After getting the handwriting expert opinion, the Investigating Officer has fairly closed the complaint as 'mistake of fact'. Initially, no doubt the pre-trial arrest could have caused mental agony, harassment and disturbance to the petitioner. However, it is the prima facie satisfaction of the Investigating Officer which has prompted to arrest the petitioner for the suspected guilt of the petitioner. The remand of the petitioner to the prison is the discretion of learned Judicial Magistrate and it is a judicial function. On the date of remand, there was every reason to suspect the petitioner and the family members over the unnatural death of the said Deepa.

8. Therefore, for the judicial act of remanding the petitioner which is based on the material collected at the time of initial investigation and prima facie satisfaction cannot be a ground to pay compensation. Therefore, there is no reason to entertain the plea of the petitioner herein. If the petitioner has any grievance over the closing of the complaint given by the petitioner's son against the parents of the deceased, it is always open to the parties to work out their remedy in accordance with law.

9. In view of the above, this writ petition is closed. No costs.

Sd/-

Assistant Registrar (CS-II)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Secretary to Government,
Home Department (Police),
Fort St. George,
Chennai-600 009

2.The Director General of Police,
Chennai.



3.The Superintendent of Police,
Theni District.

4.The Deputy Superintendent of Police,
Theni Sub Division, Theni,
Theni District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to MR.C.JEGANATHAN (VEERA ASSOCIATES), Advocate (SR-1147[F]
dated 11/01/2022)

W.P (MD) No. 9684 of 2019
10.01.2022

NA (CO)

GC (03.02.2022) 4P 7C