



W.P.(MD).No.16876 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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ORDER RESERVED ON : 15.11.2022

ORDER PRONOUNCED ON : 24 .11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.16876 of 2015

R.Muruganantham

...Petitioner

Vs

1.The District Collector
Thanjavur District
Thanjavur

2.The District Adi-Dravidar Welfare Officer
Thanjavur District
Thanjavur

3.The Superintendent of Police
Thanjavur District
Thanjavur

4.The Deputy Superintendent of Police
Thanjavur
Thanjavur District

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to pay a sum of Rs.5/- lakhs by way of compensation for the medical expenses incurred by the petitioner for treating his head injury sustained during the Atrocity reported in Crime No.23/15 on the file of the fourth respondent within stipulated time and consequently direct the respondents to ensure the safety of petitioner, victims and witness by providing adequate protection to them as per Section 15A(11) of the schedule caste and schedule tribes (Prevention of



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Atrocity) Ordinance 2014.

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For Petitioner : Mr.S.Chellapandian
For R1 & R2 : Mr.M.Lingadurai
Special Government Pleader
For R3 & R4 : Mr.P.Kottai Chamy
Government Advocate (Crl.side)

ORDER

The present writ petition has been filed seeking a mandamus directing the first respondent to pay a sum of Rs.5,00,000/- by way of compensation for the medical expenses incurred by the petitioner towards treating of his head injury arising out of atrocities committed upon the petitioner under Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Act 33 of 1989).

2.According to the learned counsel for the petitioner, he is an agricultural coolie and he belongs to scheduled caste community. On 17.01.2015, he was way laid by the son of one Sathyamoorthy and he was scolded with filthy language by using caste name. Petitioner's friend namely Sargunam was attacked with iron pole. When the said Sargunam and other friends of the petitioner namely Anbarasan resisted the same, six unknown persons belonging to Puthupattai Village attacked the petitioner. The petitioner became unconscious and he was taken to the Government Hospital,



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Thanjavur for treatment due to grievous head injuries. Thereafter, he was treated in a private hospital at Thanjavur. The petitioner was under Intensive Care Unit for two days and thereafter, he was an inpatient for another two months.

3.The learned counsel for the petitioner had further submitted that the police official reached the Government Hospital, Kumbakonam and obtained a statement from the petitioner and registered a case under Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as against the five named accused and other unnamed accused. Neither the defacto complainant namely Sargunam nor the petitioner were examined by the police officials. However, the petitioner had received a summon from the Judicial Magistrate No.II, Thanjavur. A charge sheet has been laid without conducting any enquiry or recording the statement of the victim under Section 161(3) Cr.P.C. The fourth respondent has not even obtained the wound certificate of the writ petitioner which would reveal the grievous injuries.

4.The learned counsel had further contended that due to atrocities committed by the accused, the petitioner had incurred permanent physical injuries and his vision has been badly affected. Though he is entitled to receive compensation under Act 33 of 1989, he had got medical treatment for more than six months only at his own expenses. The petitioner had sent a



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representation to the first respondent on 31.08.2015. Since there was no response, the present writ petition has been filed seeking a mandamus.

5.The learned counsel for the petitioner had relied upon Section 15-A(11)(b) of Act 33 of 1989 and contended that the petitioner is entitled to immediate relief in cash or in kind to atrocity victim or their dependents. The learned counsel also relied upon Rule 12(4) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 and contended that the first respondent herein shall make necessary administrative and other arrangements and provide relief in cash or in kind or both within seven days to the victim of atrocity as provided in Annexure -I read with Annexure-II of the Rules. However, the first respondent has not complied with the said provision and despite a representation, he has not been responded positively. The learned counsel further relied upon Sl.No.41 of Annexure-I to contend that he is entitled to Rs.2,00,000/- as compensation.

6.Per contra, the learned Government Advocate (Crl.Side) appearing for the respondents 3 and 4 had contended that an F.I.R was registered by the Thanjavur Taluk Police Station in Crime No.23 of 2015 on 17.01.2015. The said F.I.R was registered under Sections 147, 294(b), 341, 427, 323, 325 of I.P.C read with Section 3(1)(x) of SC/ST (POA) Act and Section 149 of I.P.C. A charge sheet was laid in P.R.C.No.16 of 2015 and it was taken on file in



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S.S.C.No.49 of 2015 on the file of the I Additional District and Session Judge (P.C.R), Thanjavur. After full-fledged trial, all the accused persons were acquitted by an order dated 19.01.2021.

7.The learned Government Advocate (Crl.side) had further contended that the writ petitioner was examined as PW4 in the said criminal case. The writ petitioner had deposed before the Court that he could not identify the person who had attacked him. The prosecution had treated him as a hostile witness and he was cross examined by the prosecution. According to the learned Government Advocate (Crl.side), the petitioner as PW4 had not supported the case of the prosecution and he had turned hostile and hence, he is not entitled to receive any compensation under the Act. When the petitioner could not identify the aggressor, the question of invoking the provisions of Central Act 33 of 1989 does not arise.

8.The learned Government Advocate (Crl.side) had further pointed out that the first respondent herein by his proceedings dated 30.11.2016 has passed an order disbursing compensation of a sum of Rs.90,000/- to the victims. The writ petitioner had received a sum of Rs.22,500/-. Hence, the petitioner would not be entitled to receive any further amount from the Government in view of the fact that the petitioner has not supported the case of the prosecution. Hence, he prayed for dismissal of the writ petition.



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9.I have considered the submissions made on either side and perused the records.

10.An F.I.R has been registered in Crime No.23 of 2015 on 17.01.2015 on the basis of the complaint given by one Sargunam as against five accused persons and others under Sections 147, 294(b), 323, 324, 506(ii) r/w 3(1)(r) (s), 3(ii) of SC/ST Act (POA) Amend Order 2014. Serious allegations were made as against the accused persons in the said F.I.R. The charge sheet came to be laid as against five persons. The accused persons have been charged under Section 3(1)(r) of SC/ST Act, 1989. During trial, the petitioner had deposed that he could not identify the person who had attacked him and he had turned hostile. All the accused persons have been acquitted in the criminal case. These facts are not in dispute.

11.The petitioner had sustained injuries in an attack on 17.01.2015 and he has been admitted to the Government Hospital and thereafter, he had taken treatment in a private hospital. These facts are also not been disputed. However, the main contention of the learned Government Advocate is that the petitioner has not supported the case of the prosecution and that has ended in acquittal and hence, he is not entitled to receive compensation.

12.The petitioner has specifically alleged that before filing a charge sheet, no enquiry was conducted or any statement was recorded under Section



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161(3) of Cr.P.C from the writ petitioner. The police officials have filed a charge sheet without conducting an enquiry. Had an enquiry been properly conducted before filing of the charge sheet, he could have very well named and identified the persons who had attacked him and would have resulted in conviction of the real aggressor. Hence, the petitioner is not responsible for the acquittal and he cannot be considered to be a hostile witness.

13.The learned counsel for the petitioner had relied upon a judgement of this Court in a batch of writ petitions in ***W.P(MD).No.10500 of 2010 dated 20.03.2012 (Murugan and others Vs. State of Tamil, represented by the Chief Secretary, Chennai)*** to contend that even in cases where a compromise has been reached between the parties in order to preserve the social harmony, the State is liable to pay compensation to the victim of atrocities.

14.A perusal of the judgment in the criminal case indicates that the accused persons were charged under Section 3(1)(r) of Act 33 of 1989. When the said provision is attracted, the petitioner is entitled to receive a compensation of Rs.1,00,000/- as contemplated under Serial No.18 of Annexure -1. Out of the said Rs.1,00,000/-, the petitioner is entitled to receive 75%, in view of acquittal in the criminal case. The petitioner has already received a sum of Rs.22,500/- by the proceedings of the first respondent dated 30.11.2016. Hence, the petitioner is entitled to receive the balance amount of Rs.52,500/-. Though the petitioner has prayed for a sum of



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Rs.5,00,000/- as compensation in the writ petition, he had restricted his prayer to the statutory compensation as per Serial No.41 of Annexure No.1 of the Act. Serial No.41 is applicable only in cases where 3(2)(va) are invoked. However, a perusal of the judgment of the Criminal Court indicates that only Section 3(1)(x) was invoked and not Section 3(2)(va). Hence, the case of the petitioner would fall only within Serial No.18 and not under Serial No.41. Therefore, the petitioner is entitled to receive a sum of Rs.52,500/-.

15.In view of the above said facts, the writ petition is partly allowed. The first respondent is directed to pay a sum of Rs.52,500/- as compensation to the writ petitioner within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

24.11.2022

Internet : Yes/No
Index : Yes/No
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To

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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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