



W.P(MD)No.24849 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:30.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.24849 of 2022

P.Ganesan

...Petitioner

Vs

1. State of Tamil Nadu,
Rep. by its Principal Secretary,
Department of Revenue Administration,
Fort St. George,
Chennai.
2. The Government of Tamil Nadu,
Rep.by the Home Secretary,
Secretariat, St. George Fort,
Chennai.
3. The Director General of Police,
O/o. of the Director General of Police,
Beach Road, Chennai.
4. The District Collector,
Tirunelveli District,
Tirunelveli.
5. The Revenue Divisional Officer,
Tenkasi,
Tenkasi District.
6. The Tahsildar,
Veerakeralampudur,
Tenkasi District.



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7. The Superintendent of Police,
Office of the Superintendent of Police,
Tenkasi District.

8. Mr.Anandhakumar,
The Inspector of Police,
Surandai Police Station,
Tenkasi District.

9. Mr.Esakki,
The Sub-Inspector of Police,
Surandai Police Station,
Tenkasi District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the fourth respondent to provide compensation to the petitioner a sum of Rs. 1,00,00,000/- (Rupees One crore only) as per the order passed by the Hon'ble Supreme Court of India vide Crl.Appeal No.804 of 2022 arising out of SLP (Crl) No.3012 order dated 13.05.2022 within the time period stipulated by this Court.

For Petitioner :Mr.K.Paramaraj

For Respondents :Mr.A.Kannan

1,2,4,5 & 6 Additional Government Pleader

For R3 & R7 : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)



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ORDER

This Writ Petition has been filed for a writ of mandamus to direct the fourth respondent to provide compensation to the petitioner a sum of Rs. 1,00,00,000/- (Rupees One crore only) as per the order passed by the Hon'ble Supreme Court of India vide Crl.Appeal No.804 of 2022 arising out of SLP (Crl) No.3012 order dated 13.05.2022 within the time period stipulated by this Court.

2. The petitioner was working as a Village Administrative Officer in Anaikulam village, Veerakeralampudur Taluk and one Krishnan is a Village Assistant. Earlier, he was working in Kulayaneri village on 21.03.2006 the President of Kulayaneri village and other village people informed to him by a written representation to the effect that one Pasanthu and Subramanian were taking their JCB vehicle through the place prohibited by Supreme Court order in Writ



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Petition (Civil) No 318/2002 and also it was prohibited by the Order of Land Special Commissioner and Commissioner of Land Administration vide D.O Lr No.T1/847/2003 the Odai Poramboke in Survey Nos.221/3, 199/1 and in most of survey numbers they are destroying the water sources. On 21.03.2006 at 12.00 P.M they went to the above Odai Poramboke and in the meantime the above said Pasanthu and few others had destroyed water source the Odai Poramboke land in Survey Nos.221/3, 199/ land by using heavy equipments.

3. Hence, he has filed a case against the above said private party namely Subramanian, Pasanthu and 11 others before Learned Judicial Magistrate, Alangulam and the same was registered in Cr.No. 69/2006. When the said Cr.No.69 of 2006 is pending, he sought for transfer of investigation before this Court in

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CrI.O.P. (MD)No.4794 of 2006. This court passed following order:-

"As the final report has now reached the Learned Judicial Magistrate, Tenkasi, the petition seeking transfer of investigating agency stands dismissed. The petitioner may work out his remedies before the Learned Judicial Magistrate concerned"

4. On 21.03.2006 the petitioner went to protect the water ways and acted in his official capacity. At the time of his duty, the said Subramanian and others threatened him with deadly weapons and abused him and therefore, the petitioner lodged a complaint before the Respondent No.9 and it was registered in Crime No. 69 of 2006, and the same was dismissed as mistake of fact, that closure report was also submitted by the 8th Respondent herein. Against the said closure Report, he filed protest petition in PRC.No. 8 of 2019 before the Learned Judicial Magistrate, Alangulam, Tenkasi District.



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5. On 21.03.2006 the said Subramanian has preferred a false complaint against the petitioner and four others and it was registered in Crime No.68 of 2006 and the Charge Sheet was filed in C.C.No. 192 of 2008 that the Defacto complainant went in a vehicle along the South North mud road in Survey Nos. 221/3 and 199/1 which is situated on the east of the Kulayaneri Village, the above said accused formed themselves into an unlawful assembly and he caused criminal intimidation.

6. The allegation against the petitioner and others in the Final report was that they have committed the offences under sections 147, 341, 294(b), 506(ii) altered to 147, 148, 341, 294(b), 506(ii) and 149 of I.P.C. That the above C.C.No.192 of 2008 was posted before the Judicial Magistrate, Tenkasi along with C.C. No. 246 of 2006 and then transferred to



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Learned Judicial Magistrate, Sengottai.

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7. He would further submit that the a Kulayaneri Village people Villager filed a suit in O.S.No. 204 of 2006 before the Principal District Munsif Court, Tenkasi along with Injunction Application in I.A.No.490 of 2006 in Survey Nos. 221/3 and 199/1 and in some other survey numbers of Kulayaneri Village, V.K.Pudur Taluk, Tenkasi District. On 03.05.2006, the petitioner has sent a representation to the Respondent No.5 through his Association for withdrawal of the case and also on 23.01.2007 the Respondent No.5 sent a letter to the Respondent No.2 by in Na.Ka. A5/4928/06 and thereafter on 05.03.2007 the Respondent No.4 issued a letter to the Joint Commissioner of Revenue Administration by his proceedings in Na. Ka. A1/30297/2006 and referred the case against the Petitioners to be considered as a case of the State.



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8. He would further submit that on 12.11.2008 the petitioner sent a representation to the Respondent No.2 to issue appropriate direction to the concerned prosecutor to withdraw the case and also consider as a case of the State. In the above said circumstances, the petitioner has filed a writ Petition before this Court in W.P.(MD)No. 1525 of 2009 for direction, directing the Respondents, the Director General of Police and the Joint Commissioner of Revenue Administration to consider his representation dated 12.11.2008 and directing the Respondents to withdraw the case which was considered as a case of the State in C.C.No. 192 of 2008 on the file of Learned Judicial Magistrate, Sengottai, Tirunelveli District, in exercise of the powers of the Government.

9. By order dated 08.04.2009, this Court also directed the Respondent No.2 therein (Govt of Tamil Nadu, Rep by its Home Secretary) to



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consider and dispose of his Representation dated 12.11.2008 on merits as per the Law within a period of four months from the date of receipt of copy of that Order.

10. In the meantime, the petitioner constrained to file a Quash petition to quash the Final Report filed against him in C.C.No.246 of 2006, on the file of the Learned Judicial Magistrate, Shengottai for offences under sections 147, 148, 341, 294(b), 506(ii) and 149 of I.P.C. In that case, On 12.06.2009 this Court has granted stay in M.P.No.2 of 2010 in Cr1.0.P.(MD)No. 2182 of 2009 and the same was also disposed on 08.10.2012. On 31.12.2012 he got superannuation. Further, the petitioner filed a Writ petition in WP(MD)No.1286 of 2013 before this court for seeking a relief of writ of mandamus by directing the District Collector, Tirunelveli and Revenue Divisional Officer, Tenkasi to



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provide the retirement benefits, Gratuity, Provident Fund, Special Provident Fund, Leave Salary, Earned Leave Salary, Family Benefit Fund, surrender of leave on private surrender. This court also passed an order that the terminal benefits of the petitioner to which he will be entitled, by virtue of the order, permitted him to retire, should be relased. The respondents shall bear in mind the fact that if a person is permitted to retire without prejudice, he is entitled to the terminal benefits except to the extent of the recovery of any monetary loss alone.

11. On 10.03.2010, the Respondent No.2 passed the impugned order in Letter (D) No. 252/CTS.IV/2010- 1 and rejected the grievance of the petitioner to withdraw the case which considered as a case of the State in C.C.No. 192 of 2008 on the file of Learned Judicial Magistrate, Sengottai, Tirunelveli

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WEB COPY District in the exercise of the powers of the Government. The retirement order was passed by the 5th respondent vide proceeding ROC.B1/10556/2012 dt,31.12.2012 stating that Thiru.P.Ganesan, Village Administrative Officer, Kulayaneri Village, V.K.Pudur Taluk is permitted to retire from the service on the afternoon of 31.12.2012 without prejudice to the pending framing charges which will follow in due course and the court trial.

12. Thereafter, the petitioner filed a writ petition in WP(MD)No.1286 of 2013 praying to issue a writ of certiorarified Mandamus to call for the records pertaining to the impugned order in R.O.C.B1/10556/2012, dated 31.12.2012 and to quash the same as illegal and consequently direct the concerned respondents to provide all the retirement benefits to the petitioner within the time stipulated by this court.



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13. On 24.01.2013, this court passed an order in MP(MD)No.2 of 2013 that the terminal benefits of the petitioner, to which he will be entitled by virtue of the order, permitted him to retire, should be pleased. The respondents shall bear in mind the fact that if a person is permitted to retire without prejudice, he is entitled to the terminal benefits, except to the extent of the recovery of any monetary loss alone.

14. In spite of the above order passed by this court, the concerned respondent failed to obey the same. Hence, the petitioner preferred a contempt petition in Cont.P.(MD)No.467 of 2013 in MP(MD)No.2 of 2013 in W.P.(MD)No.1286 of 2013 to punish the respondents/contemnors for the willful disobedience of the order passed by this court in M.P.(MD)No.2 of 2013 in W.P.)MD)No.1286 of 2013 dt.24.01.2013. When the said contempt petition was taken up before this court, this court passed an order that as per



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the submission of the counsel for respondents, order of this court, dated 24.01.2013, made in M.P.(MD)No.2 of 2013 in WP(MD)No.1286 of 2013, has already been complied with by the third respondent/the Tahsildar, V.K.Pudur, Tirunelveli District by his proceedings in Roc.A3/ 11695/2012 dated 19.03.2013. Hence the contempt petition was closed.

15. He would further submit that in the year 2013, he filed a Crl.R.C.(MD) No. 798 of 2013 to call for records in C.C.No. 192 of 2008 Judgment, dated 16.07.2013 passed by the Judicial Magistrate Court, Sengottai and expunge the remark of acquittal and hold it as honorary acquittal for the petitioner/A3 in C.C.No. 192 of 2008 and pass such further or other Orders as this Court may deem fit and proper in the circumstances of this case.

16. On 05.12.2013 when case in Crl.R.C (MD) No. 798 of 2008 came up for



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hearing, this Court has passed an Order that the Petitioner has to be acquitted honorably. Therefore, the petitioner has to be acquitted honorably as the case is not proved as against him. For all the reasons stated above, this Criminal Revision is allowed and the finding of the Court below that the petitioner is acquitted on the benefit of doubt is modified and the petitioner shall stand acquitted honorably.

17. He would further submit that the order of the Respondent No.2 is illegal. The petitioner was implicated in the case in C.C.No. 192 of 2008 and he only discharged his official duty and did not commit any offence. The Respondent No.2 failed to consider that on 05.03.2007 the Respondent No.4 issued letter to the Joint Commissioner of Revenue Administration vide Na.Ka.No.A1/30297/2006 and referred the case against him to be considered

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as a case of the State and it can be withdrawn
by the State any time.

18. The Respondent No.8 has foisted a false case against the petitioner. When he was taken steps to proceed against one Mr.Subramanian and four others, the Respondent No.8 has registered a false case in C.C.No. 192 of 2008. Hence, it is just necessary to take action against Respondent No.8 and 9 in the interest of justice and there is no any specific allegation against him.

19. That on 21.08.2017, the petitioner has sent a detailed representation to the Respondent to provide compensation for a sum of Rs. 1,00,00,000 (Rupees one crore only). But no action has been taken till date. The said all facts are clearly shows that the Respondent No.8 & 9 had foisted false case



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against him. Hence it just necessary to provide compensation to him.

20. He has filed WP(MD)No.16528 of 2017 before this court seeking relief of writ of Mandamus directing the respondents to provide compensation to the petitioner for a sum of Rs.1,00,00,000/- (Rupees One Crore only) within the time period stipulated by this court. When the said writ petition came up before this court on 03.12.2020, this court passed an order that considering the request of the learned counsel appearing for the petitioner therein, this writ petition is dismissed as withdrawn. However, if the petitioner surrender before the concerned court, the bail petition may be considered on the same day on merits and in accordance with law.

21. Aggrieved over the above said order, the petitioner filed Cr1. Appeal No.804 of 2022 arising out of SLP.(Cr1).No 3012 of 2022 dates 13.05.2022 before the Hon'ble



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Supreme Court. The Hon'ble Supreme Court after perusal of all the records passed the following order:-

" the learned counsel appearing for the petitioner submitted that the petitioner is ready and willing to surrender before the concerned Court and prayed that bail petition may consider on the same day and seeks permission of this Court to withdraw this petition.

Considering the request of the learned counsel appearing for the petitioner, this writ petition is dismissed as withdrawn. However, if the petitioner surrenders before the concerned Court, the bail petition may be considered on the same day on merits in accordance with law. No costs."

22. In the meanwhile, this Court on 24.02.2022 passed a detailed order in WP(MD).No.16528 of 2017 and observed as follows:-

"the petitioner has to file a



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suit for damages and the damages cannot be waived in the Writ petition, that too, filed under Article 226 of the Constitution of India, Therefore, the Writ petition is devoid of merits and the same is dismissed. No costs. "

23. Therefore, the petitioner filed the present writ petition as per the order passed by the Hon'ble Supreme court in Cr1. Appeal No.804 of 2022 arising out of SLP(Cr1).No. 3012 of 2022, dated 13.05.2022 which clearly stated that Leave granted.

"This appeal challenges the judgement and order passed by the High court of Judicature of Madras, Bench at Madurai in WP(MD)No.16528 of 2017 dt. 03.12.2020.

The writ petition filed by the appellant praying inter alia that he be provided compensation in the sum of Rs. 1,00,00,000/- within such time as may be stipulated by the High court.

4.while dealing with such writ petition,



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the order passed by the High court was to the following effect.

Para 2 of Writ petition- " the learned counsel appearing for the petitioner submitted that the petitioner is ready and willing to surrender before the concerned court and prayed that bail petition may be considered on the same day and seeks permission of this court to withdraw the petition.

Para 3 of Writ petition- "considering the request of the learned counsel appearing for the petitioner, this writ petition is dismissed as withdrawn. However, if the petitioner surrender before the concerned court, the bail petition may be considered on the same day on merits in accordance with law. No costs.

5.there appears to be some mistake in passing the order as what has been observed by the High court in Paragraphs 2 and 3 has nothing to do with the fact situation presented before the High court.

6.We, therefore, have no other



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alternative but to set aside the instant order and restore the petition on the file of the High court to be disposed of on merits.

7. we have not and shall not be taken to have reflected on the merits of the claim made before the High court and all issued including the question whether or not the petitioner can maintain and be granted relief as prayed for are left to be decided by the High court.

8. with these observations, the appeal is allowed.

24. Hence, the petitioner filed the present writ petition seeking writ of mandamus directing the fourth respondent to provide compensation to him for a sum of Rs.1,00,00,000/- as per the order passed by the Hon'ble Supreme Court of India.



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25. The learned Additional Government Pleader appearing for the respondents 1,2,4,5 & 6 would submit that as per the order of this Court, dated 24.02.2022 made in W.P(MD)No.16528 of 2017, the petitioner has to approach the competent civil Court by filing appropriate petition.

26. It is seen from the records that already this Court on 24.02.2022 in W.P(MD)No.16528 of 2017 has passed the following order:-

“Though the petitioner was acquitted from the charges under Sections 147, 148, 341, 294(b), 506(ii) and 149 of IPC on the benefit of doubt, subsequently, it was modified as honourably for the service benefit, it does not mean that the respondents 7 and 8 prosecuted the petitioner on a false case. That apart, the petitioner has to file a suit for damages and the damages cannot be waived in the writ petition, that too, filed under Article 226 of the Constitution of India. Therefore, the Writ Petition is devoid of merits and the same is dismissed. No costs.”



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28. In view of the above, this Court is not inclined to accept the prayer sought for by the petitioner, hence, this petition is dismissed. If at all he seeks for damages, he has to approach the competent Civil Court by filing appropriate petition. No costs.

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Index : Yes/No
Internet:Yes/No
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1. The Principal Secretary,
Department of Revenue Administration,
Fort St. George,
Chennai.
2. The Home Secretary,
Government of Tamil Nadu,
Secretariat, St. George Fort,
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3. The Director General of Police,
Beach Road, Chennai.
4. The District Collector,
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V.BHAVANI SUBBAROYAN, J.

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