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W.P(MD)Nos.21495 and 21496 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.07.2021

Pronounced on : 02.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P(MD)Nos.21495 and 21496 of 2016

WP(MD)No.21495 of 2016

V.N.Raja Mohamed

... Petitioner

Vs

1.The Secretary to the Government of Tamil Nadu
Home Department,
Secretariat, Chennai.

2.The Director General of Police,
Kamarajar Salai,
Santhome, Chennai.

3.Vickram, IPS.,
The Superintendent of Police,
Tirunelveli District.

4.Mayilvahanan, IPS.,
The Superintendent of Police,
Tanjore District.

5.Nandakumar, IAS.,
The District Collector,
Perambalur District,
Perambalur.

6.Ratna Kumar,
The Inspector of Police
District Crime Branch,
Dharmapuri District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus, directing the respondents No.1 and 2 to pay a sum of Rs.50,00,000/- as compensation to the petitioner and further direct the 1st respondent to initiate appropriate proceedings as against the 5th respondent and further direct the 2nd respondent to initiate appropriate proceedings as against the respondent Nos.2,3 and 6 departmentally as well as under criminal law forth with, in view of the petitioner false implication and the petitioner consequential illegal detention in connection with FIR in Crime No.90 of 2013 registered at Paramakudi Police Station, Ramanathapuram District.

WP(MD)No.21496 of 2016

M.Manoharan

... Petitioner

Vs

- 1.The Secretary to the Government of Tamil Nadu
Home Department,
Secretariat, Chennai.
- 2.The Director General of Police,
Kamarajar Salai,
Santhome, Chennai.
- 3.Vickram, IPS.,
The Superintendent of Police,
Tirunelveli District.
- 4.Mayilvahanan, IPS.,
The Superintendent of Police,
Tanjore District.
- 5.Nandakumar, IAS.,
The District Collector,
Perambalur District,
Perambalur.



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6.Ratna Kumar,
The Inspector of Police
District Crime Branch,
Dharmapurti District.

7.Sabari
The Sub Inspector of Police,
Food Cell, CID,
Uthamapalayam,
Theni District.

8.Sankar,
Grade I Police Constable,
Thooval Police Station,
Ramanathapuram District.

... Respondents

[R3 to R5 were removed by the petitioner on 15.11.2016]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus, directing the respondents No.1 and 2 to pay a sum of Rs.60,00,000/- as compensation to the petitioner and further direct the 1st respondent to initiate appropriate proceedings as against the 5th respondent and further direct the 2nd respondent to initiate appropriate proceedings as against the respondent Nos.3,4 and 6 to 8 departmentally as well as under criminal law forth with, in view of the petitioner false implication and the petitioner consequential illegal detention in connection with FIR in Crime No.90 of 2013 registered at Paramakudi Police Station, Ramanathapuram District.

For Petitioner	: Mr.R.Anand
For Respondent	: Mr.S.Ravi,
Nos.1 and 2	Standing Counsel for the State
For Respondent	: Mr.N.Sathis Babu
No.6	



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ORDER

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These writ petitions are filed for a writ of mandamus directing respondents 1 and 2 to pay a sum of Rs.50 lakh and Rs.60 lakh as compensation to the petitioners respectively and also for a direction to respondents 1 and 2 to initiate appropriate proceeding as against respondents 3 to 8.

2.Since the relief sought for in these writ petitions arising out of a same case, these writ petitions are taken up together and disposed of by this common order.

3.The learned Counsel for the petitioners submits that these petitioners were falsely implicated in a criminal case registered in Crime No.90 of 2013 on the file of the Town Police Station, Paramakudi, Ramanathapuram district, arrested, committed to prison and detained under the provisions of the National Security Act. The petitioner in WP (MD) No.21495 of 2016, Raja Mohamed is a realtor by



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profession and his wife was working as a Secondary Grade Teacher. The petitioner in WP(MD)No.21496 of 2016 is also a realtor. One Murugan @ Murugesan, then town secretary of BJP party was murdered by three unknown persons by throwing bombs on 19.03.2013. On the complaint of one Sivakumar, brother of the deceased, the case in Crime No.90 of 2013 on the file of the Paramakudi Town Police Station was registered as against three unknown persons under Sections 302 and 506(ii)IPC and under Section 5 of the Explosive Substances Act. The investigation was conducted by 6th respondent Ratna Kumar, then Inspector of Police, Paramakudi Town Police Station. He arrested the petitioners that they are the accused and remanded them to judicial custody. The petitioner V.N.Raja Mohamed was arrested on 06.04.2013 and the petitioner Manoharan was arrested on 19.03.2013. They were also committed to prison. On the recommendation of 6th respondent, the District Collector invoked the National security Act on 01.05.2013 and on 04.05.2013 respectively as against the petitioners. Later the investigation in Crime No.90 of 2013 was transferred to CBCID, headed by Additional Superintendent of Police. The CBCID found that the real accused are one



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Fakhrudeen alias Police Fakhrudeen, Bilal Malik, Mohammed Ismail @ Panna Ismail and also exonerated the petitioners in the charge sheet filed on 06.4.2014. The Department has initiated departmental proceedings as against 6th respondent Ratna Kumar and found him guilty. The 6th respondent under the pressure of respondents 3 to 6 intentionally implicated the petitioners and forced them to accept the offence, committed to prison from 19.03.2013 to 25.07.2013 and 06.04.2013 to 25.07.2013 respectively.

4.The learned Counsel further submits that respondents 1 and 2 have admitted that 6th respondent did not conduct the investigation in Crime No.90 of 2013 properly and he conducted the investigation in a casual manner, which resulted in false implication of the petitioners as accused, for which they have initiated departmental proceeding as against 6th respondent. In the departmental proceedings he was found guilty and punishment of postponement of increment for one year with cumulative effect was imposed. On the appeal filed by 6th respondent, the appellate authority, the Director General of Police,



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enhanced the punishment of postponement of next increment for two years with cumulative effect. The review petition filed before the Director General of Police was rejected.

5.The learned Counsel further submits that even after their release from the prison, the petitioners faced several difficulties in the society, not only the petitioners, but even their families were affected and they were ex-communicated from the society. Petitioner Raja Mohamed's wife was compelled to resign her teacher job and the marriage fixed for his daughter was cancelled by citing the registration of criminal case against him. Because of his false implication in this case, the petitioner Manoharan's whole family was viewed indifferently by the society, a stigma was cast upon them and they were driven to leave their native place and the sufferings and the penuries experienced by them cannot be described in words.



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6. During the course of arguments the petitioner has also made endorsement with regard to the respondents R3 to R5 that they are not pressing against them and accordingly they were removed from this proceedings.

7. The sixth respondent took a stand that on the date of occurrence on 19.03.2013, he was at Chennai on duty before the Advisory Board in respect of a case registered under Act 14 of 1982. The initial investigation was conducted by one Pandian Inspector of Police attached to Paramakudi Town station. He only prepared the inquest report, observation mahazar, rough sketch and he also recorded the statement of witness 1 to 7. The 6th respondent took the charge of the investigation from 21.03.2013 and examined 10 witnesses and he found that the father of the deceased namely Kathiresan Chettiar inherited a property situated in Survey Nos.111/1 and 111/2 to an extent of 2.81.5 Hectares in Paramakudi. One Kurshid Banu, wife of Sheikh Mohammed filed a civil suit in OS.No.144 of 2003 before the District Munsif, Paramakudi claiming 1.20 acre in the above said land, on the instigation and hand in glove with the above said



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Raja Mohamed. The petitioner namely Manoharan is the close relative to V.N.Raja Mohamed, who is a converted Muslim and his original name is Rajapandian. The said Kurshid Banu hand in glove with the above said Raja Mohamed created a forged sale deed in respect of 1.20 acre in the above said land belonging to Kathiresan Chettiar and sold out the same to Manoharan. Some persons namely K.Sathaiyah, Karthigai Raja, Ramakrishnan, Ramasamy, Karuppaiah and Muniyandi also colluded themselves for the above said forged acts. Such being the situation the above said Kathiresan Chettiar and his son sold out above said entire property to Raja Bhai @ Rafeek Raja of Melur, Madurai District for a sale consideration of Rs.8 Crores and 75 lakh. Before the above said sale consideration, the said V.N.Raja Mohamed and Manoharan created problem to prevent the above said sale. Therefore the purchaser Raja Bhai @ Rafeek Raja mediated the said issue and paid a sum of Rs.80 lakh to the said VN.Raja Mohamed. But even thereafter, V.N.Raja Mohammed demanded more money from the deceased and his father Kathiresean Chittiar. In order to wreak vengeance due to the land dispute, V.N.Raja Mohamed and his relative Manoharan with help of the goondas, murdered the above said

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the Murugan @ Murugesan by throwing bombs and attacking with deadly weapons in a daylight on 19.03.2013 at about 2.15pm.

8. Thereafter only 6th respondent nabbed the petitioner Manoharan on 06.04.2013 at 10.00a.m. On his confession, he arrested 3rd and 4th accused namely Valakkai Rafeek and Sahul Hameed about 12.00p.m. and further arrested 1st accused V.N. Raja Mohamed on 06.04.2013 at about 2.45p.m and produced all of them before the Judicial Magistrate, Paramakudi at about 6.40 p.m and they were sent to judicial remand. Only after due concurrence and direction given by 3rd and 4th respondents alone, he proceeded with the investigation, after informing each and every development to them. In view of the depositions given by the *defacto* complainant and other witnesses of the case in Crime No.90 of 2013 before the enquiry officer, still there is a chance of including the writ petitioners and other accused again by filing appropriate application before the appropriate Court of law to add them as accused in the above mentioned case. The brother of the deceased namely Sivakumar, who was



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the defacto complainant in the above said case, deposed in the oral enquiry very clearly by stating that only on the instigation of the CBCID (SIT) officials, he has given statement to the effect that one Panna Ismail, Bilal Malik, Police Fakrudeen murdered his brother. Further the said Sivakumar confirmed the identification of 3rd and 4th accused in this case during the identification parade conducted before the Judicial Magistrate, Mudukulathur. Moreover, during his examination, he was informed that one Aslam along with 4 other unidentified persons visited and noticed area, where he runs the shop, on the previous day of the murder. Another witness PW4 namely Sathaiyah deposed that he had a nexus with V.N.Raja Mohamed and Manoharan in respect of the disputed land and he received a sum of Rs.2 lakh from the above said V.N.Raja Mohamed. Further two more witnesses namely Rafeek Raja and father of the deceased namely Kathiresan also deposed by supporting the same. From disposition of the above witnesses, it is very crystal clear that the involvement of writ petitioners was confirmed in the above said crime. Further, the video recording of the statement of the writ petitioners and PW4 Sathaiyah is available with him and he is ready to produce

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the same before this Court. However, the present investigation agency CBCID(SIT) discharged the writ petitioners without any basis for the best reasons known to them. Therefore the claim of the petitioners as they have not involved in the above said murder is ruled out. Mere filing of charge sheet discharging the petitioners, does not mean a clean chit is given to them. Moreover since the charge sheet filed before the Judicial Magistrate No.II, Ramanathapuram is pending adjudication and therefore it cannot be construed as they have been falsely implicated in the above said case. CBCID (SIT), who took up the investigation of the case in Crime No.90 of 2013 is not impleaded as party as they are competent to give their reply to the present claim of the writ petitioners.

9.This Court considered the rival submissions and perused the materials placed on record.

10.One Murugan @ Murugesan, former Town Secretary of a political party was murdered on 19.03.2013 at about 15.00 hours in front of Ramu grocery shop, Eswaran kovil junction, Paramakudi. On the complaint of one Sivakumar



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brother of the deceased the case in Crime No.90 of 2013 was registered on the file of the Pramakudi Town Police Station for the offences punishable under sections 302 and 506 (ii) IPC and under Section 5 of the Explosive Substances Act. Initially Pandian, Inspector of Police, Paramakudi Town Police station took up the investigation, since the Inspector of Police, Paramakudi Town Police Station was on official duty at Chennai. From 20.03.2013, 6th respondent herein took up the investigation and continued the investigation in Crime No.90 of 2013. During his investigation it was recorded that the murder of Murugan @ Murugesan occurred due to a land dispute between Kathiresan Chettiar (father of deceased) and Raja Mohamed of Paramakudi. Kathiresan Chettiar, instead of selling his land to Raja Mohamed, sold it to Rafiq Raja of Melur, who in turn sold it for double the amount within two months of his purchase. Therefore, Raja Mohamed had an enmity over Kathiresan Chettiar for not selling the land to him. Therefore the investigation officer 6th respondent arrested Manoharan and based on his confession one Vazhakkai @ Rafiq Raja, Sahul Hameed and Raja Mohamed / petitioner herein were arrested on 06.04.2013.



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11. During the investigation of a Murder of Vellore district Hindu front president Vellaiappan in Vellore North PS. Crime No.599 of 2013, accused Fakrudeen @ police Fakrudeen, Bilal Malik and Mohamed Ismail @ Panna Ismail were arrested by special investigation team of CBCID. During the course of the investigation of Vellayappan's murder case, the accused Fakrudeen @ Police Fakrudeen, Bilal Malik confessed their direct involvement in the murder of Murugan @ Murugesan, Paramakudi as part of Jihad, as they felt the activities of Murugan @ Murugesan were anti-islamic. Therefore the murder case of Murugan @ Murugesan was transferred to CBCID(SIT) for further investigation, as per the orders of the Director General of Police Tamilnadu, Chennai RC.No.126136/crime/4(1)/2013, dated 18.10.2013. During the investigation the CBCID(SIT) clearly established that the murder of Murugan @ Murugesan was committed by accused Fakrudeen @ Police Fakrudeen, Bilal Malik, Mohamed Ismail @ Panna Ismail, as part of jihad to eliminate anti-islamic activist. The CBCID filed the final report on 07.05.2014 against the above said three accused for the offences punishable under sections 120(B) 341, 302 and 506(ii) and 34 of IPC, under section



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153A, 404 IPC and under section 16(1)(a) r/w 15, 18 and 20 of Unlawful Activities (Prevention) Act, 1967 and under Section 3(b), 4(ii) r/w 4(a), 4(b), 5(b) and 6 r/w 3(b), 4(ii) r/w 4(a), 4(b) and 5(b) of the Explosive Substances Act, 1908 and 109 of IPC and the same is taken on file by the Sessions Court for Exclusive Trial of Bomb Blast Cases at Poonamallee, Chennai in C.C.No.9 of 2014.

12. Departmental action was also initiated against 6th respondent in Ramanathapuram district in P.R.No.111/2014 u/r 3(b) of the TNPSS (D&A) for his perfunctory investigation of Paramakudi Town Police Station Crime No.90 of 2013, registered under Sections 302 and 506(ii) IPC r/w Section 5 of the Explosive Substances Act, 1908 in Paramakudi Town Police Station. On the basis of the enquiry report the Deputy Inspector General of Police, Salem range had awarded a punishment of postponement of next increment for one year with cumulative effect. On the appeal filed by 6th respondent, the punishment was also enhanced by the Additional Director General of Police (L&O) by postponing the next increment for two years with



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cumulative effect. The review petition filed by 6th respondent before the Director General of Police was rejected and the mercy petition filed by the 6th respondent before the Hon'ble Chief Minister and to the Chief Secretary were also rejected.

13. Based on the confession statement made by accused in Crime No.599 of 2013 on the file of the Vellore North Police Station, the case in Crime No.90 of 2013 on the file of the Paramakudi Town Police Station was transferred to CBCID. The investigation was conducted by the Additional Superintendent of Police CBCID. CBCID also enquired 6th respondent on 07.11.2013 in respect of his investigation in Crime No.90 of 2013. 6th respondent has also admitted the same in his counter affidavit that a questionnaire containing 74 questions was given to him and he has given his reply for the same. Only thereafter CBCID took a decision to exonerate the writ petitioners as accused and have also filed the final report as against one Fakrudeen and others. The occurrence has taken place on 19.03.2013. On that day 6th respondent was not in station and he was on



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official duty Chennai in respect of another case. Therefore preliminary investigation was conducted by the Inspector of Police one Pandarajan. He has recorded the inquest on 19.3.2013 at about 6.00p.m. The deceased Murugan @ Murugesan, was the then town secretary of a political party of Paramakudi Town. The investigation officer by examination of witnesses arrived at a conclusion that the death may be due to a land dispute or due to religious motive. He also recorded that one Aslan - STPI member converted sowrastra women to Muslim community and the deceased prevented the same and on account of this also there was a motive. 6th respondent has taken up the investigation from 21.03.2013, arrested the petitioners.

14.It is alleged that due to the pressure exerted by the higher officials, 6th respondent investigation officer hastily fixed the petitioners as accused. One of the witnesses Sathaiya has deposed before the trial court that he was coerced by 6th respondent to give statement implicating the petitioners as accused. Kathiresan Chettiar, father of the deceased, in his evidence before



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the trial Court has stated that he had never seen the investigation officer Ratna Kumar and he has talked to him only through mobile. The department has also found that there was perfunctory investigation in the investigation conducted by 6th respondent and proceedings were also initiated, enquiry was conducted and postponement of increment for a period of one year was imposed. On the appeal, the punishment was enhanced to postponement of increment for two years. The review petition and Mercy petition filed by 6th respondent was also rejected.

15.The petitioners allege that even after their release from the prison, they faced several difficulties in the society. Even their families were affected and they were ex-communicated from the society. Petitioner Raja Mohamed alleges that his wife was compelled to resign her teacher job and the marriage fixed for his daughter was cancelled due to this criminal case. The petitioner Manoharan alleges that his family was viewed indifferently by the society, a stigma was cast upon them and they were driven to leave their native place and the sufferings and



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the penuries experienced by them cannot be described in words.

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16.All the available materials show that 6th respondent has conducted perfunctory investigation in crmie No.90 of 2013, on account of which, the petitioners were falsely implicated in the case and they were prisoned from 19.03.2013 to 25.07.2013 and 06.04.2013 to 25.07.2013 respectively.

17.It would be relevant to refer to the decision of the Hon'ble Supreme Court in the case of **Rudul Sah vs State of Bihar, reported in AIR 1983 SC1086**, wherein it has been held that one of the ways in which the violation of the fundamental right under Article 21 of the Constitution by the authorities of the State can reasonably be prevented is to direct payment of monetary compensation to the individuals whose rights are affected. In para 10 it has been held as follows:

"Article 21 which guarantees the right to life and liberty will be denuded of its



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significant content if the power of this Court were limited to passing orders of release from illegal detention. One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of Art. 21 secured, is to mulct its violators in the payment of monetary compensation. Administrative sclerosis leading to flagrant infringements of fundamental rights cannot be corrected by any other method open to the judiciary to adopt. The right to compensation is some palliative for the unlawful acts of instrumentalities which act in the name of public interest and which present for their protection the powers of the State as a shield. If civilization is not to perish in this country as it has perished in some others too well known to suffer mention, it is necessary to educate ourselves into accepting that, respect for the rights of individuals is the true bastion of democracy. Therefore, the State must repair the damage done by its officers to the petitioner's rights. It may have recourse against those officers."

18.The Hon'ble Supreme Court in **Bhim Singh Vs State of Jammu and Kashmir and others**, reported in (1985) 4 SCC 677, has held as follows:



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" We can only say that the Police officers acted in a most high handed way. We do not wish to use stronger words to condemn the authoritarian acts of the Police. If the personal liberty of a Member of the Legislative Assembly is to be played with in this fashion, one can only wonder what may happen to lesser mortals. Police Officers who are the custodians of law and order should have the greatest respect for the personal liberty of citizens and should not flout the laws by stooping to such bizarre acts of lawlessness. Custodians of law and order should not become depredators of civil liberties. Their duty is to protect and not to abduct. We have no doubt that the constitutional rights of Shri Bhim Singh were violated with impunity. Since he is now not in detention, there is no need to make any order to set him at liberty, but suitably and adequately compensated, he must be. That we have the right to award monetary compensation by way of exemplary costs or otherwise is now established by the decisions of this Court in Rudul Sah Vs State of Bihar and Sebastian M. Hongray Vs Union of India. When a person comes to us with the complaint that he has been arrested and imprisoned with mischevous or malicious intent and that his constitutional and legal rights were invaded, the mischief or malice and the invasion may not be washed away or wished away by his being set



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free. In appropriate cases we have the jurisdiction to compensate the victim by awarding suitable monetary compensation. We consider this an appropriate case. We direct the first respondent the State of Jammu and Kashmir to pay Shri Bhim Singh a sum of Rs.50,000/- within two months from today. The amount will be deposited with the Registrar of this Court and paid to Shri Bhim Singh."

19.The Hon'ble Supreme Court in re S.Nambi Narayanan vs Siby Mathews & Others Etc, has held as follows:

"31...The criminal law was set in motion without any basis. It was initiated, if one is allowed to say, on some kind of fancy or notion. The liberty and dignity of the appellant which are basic to his human rights were jeopardised as he was taken into custody and, eventually, despite all the glory of the past, he was compelled to face cynical abhorrence. This situation invites the public law remedy for grant of compensation for violation of the fundamental right envisaged under [Article 21](#) of the Constitution. In such a situation, it springs to life with immediacy. It is because life commands self-respect and dignity."



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20. In view of the above, this Court is of the view that the petitioners must be compensated suitably for their false implication in the criminal case, infringement of fundamental rights and for the consequential sufferings they have undergone and therefore, these writ petitions are allowed. The Government shall pay a sum of Rs.10 Lakh [Rupees Ten lakh] to the petitioner VN.Rajamohamed and Rs.8 Lakh [Rupees Eight Lakh] to petitioner M.Manoharan within a period of 16 [sixteen] weeks from the date of receipt of a copy of this order and the same shall be recovered from Ratna Kumar, the Inspector of Police, District Crime Branch, Dharmapuri District. No costs.

02.12.2022

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To

- 1.The Secretary to the Government of Tamil Nadu
Home Department,
Secretariat, Chennai.
- 2.The Director General of Police,
Kamarajar Salai,
Santhome, Chennai.
- 3.The Superintendent of Police,
Tirunelveli District.
- 4.The Superintendent of Police,
Tanjore District.
- 5.The District Collector,
Perambalur District,
Perambalur.
- 6.The Inspector of Police
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