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WP Nos.28484 of 2013 and 34945 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-04-2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP Nos.28484 of 2013 and 34945 of 2014

And

MP Nos.1 and 2 of 2013

Shanti ... Petitioner in WP 28484 of 2013

R.Devi ... Petitioner in WP 34945 of 2014

Vs.

The State of Tamil Nadu,
Represented by Secretary to Government,
Home Department,
Fort St. George,
Chennai-9.

.. R-1 in WPs 28484/2013 and
34945/2014

The Collector,
Chennai Collector Office,
Chennai.

.. R-2 in WP 28484/2013

The Director General of Police,
Office of Director General of Police,
Mylapore,
Chennai-600 004.

.. R-3 in WP 28484/2013 and
R-2 in WP 34945/2014



The Superintendent of Police,
Office of the Superintendent of Police,
Ponneri,
Madras-600 052.

.. R-4 in WP 28484/2013

The Superintendent of Police,
Thiruvallur District,
Thiruvallur.

.. R-3 in WP 34945/2014

The District Collector,
Thiruvallur District,
Thiruvallur.

.. R-4 in WP 34945/2014

Mr.Balu

.. R-5 in WPs 28484/2013 and
34945/2014

Mr.Dayalan

.. R-6 in WPs 28484/2013 and
34945/2014

The Dean,
Ponneri Government Hospital,
Ponneri,
Chennai-600 052.

.. R-7 in WP 28484/2013

Thiru Marudhupandian

.. R-7 in WP 34945/2014

Mr.Vijayan

.. R-8 in WP 34945/2014

Mr.Rukmangathan

.. R-9 in WP 34945/2014

Mr.Babu

.. R-10 in WP 34945/2014

Mr.Vasu

.. R-11 in WP 34945/2014

[R-5 to R-11 impleaded as per order
of Court dated 09.01.2015 made in



MP No.1 of 2015 in WP 34945 of 2014]

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WP 28484 of 2013 filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to award compensation amount of Rs.10,00,000/- (Rupees Ten Lakhs only) after considering the gravity of the offence committed by the fifth and sixth respondents.

WP 34945 of 2014 filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to register a case under Section 302 IPC against the police personnel who were involved in the murder of the petitioners husband Ravi and to transfer the investigation of the case to Central Bureau of Investigation and further directing the respondent-State of Tamil Nadu to award compensation to the petitioners family for the custodial killing of her husband Ravi.

For Petitioner in WP 28484/2013: Ms.P.Uma

For Petitioner in WP 34945/2014: Ms.P.Uma for
Mr.P.Pugalenth

For Respondents-1 to 4 and 7
in WP 28484/2013 and 1 to 4
in WP 34945/2014 : Mr.S.Silambanan,
Additional Advocate
General Assisted by
Mr.T.Arunkumar,
Additional Government
Pleader.



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For Respondent-5 in WP
28484/2013

: Mr.K.Chindan

For Respondent-6 in WP
28484/2013

: Dismissed vide order of
Court dated 12.07.2020.

For Respondents-5 to 11 in
WP 34945/2014

: Dismissed vide order of
Court dated 01.10.2015.

COMMON ORDER

WP 28484 of 2013 has been instituted for the issuance of a Mandamus to award compensation amount of Rs.10,00,000/- (Rupees Ten Lakhs only) after considering the gravity of the offence committed by the fifth and sixth respondents.

2. WP 34945 of 2014 has been instituted for the issuance of a Writ of Mandamus, directing the respondents 1 to 3 to register a case under Section 302 IPC against the police personnel who were involved in the murder of the petitioners husband Ravi and to transfer the investigation of the case to Central Bureau of Investigation and further directing the



respondent-State of Tamil Nadu to award compensation to the petitioners family for the custodial killing of her husband Ravi.

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3. The petitioner states that the husband of the writ petitioner was a load man and a daily wage employee. He was earning about Rs.500/- per day. The deceased had two wives namely Shanti and Devi. The first marriage was solemnised prior to the year 2000 and in the year 2000, the deceased married Smt.R.Devi. Three children were born to the second wife.

4. On 07.09.2013, the husband of the writ petitioner left his work at 6.00 A.M., and returned to home at 07.00 P.M. He left again to continue his work, but he did not return home on the night of 07.09.2013.

5. The second wife of the petitioner states that she contacted her husband and finally she came to know that her husband was taken away by Sholavaram Police. The police informed the second wife of the deceased that the deceased admitted to rob a house, opposite to Sholavaram Higher Secondary School and the local people had captured her husband on 08.09.2013 at 03.00 A.M., and handed him over to police and he was



brought to Police Station at 05.30 A.M. The Sholavaram Police registered a case in Crime No.653 of 2013 under Sections 457, 380 r/w Section 511 IPC.

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6. The grievances of the writ petitioners are that their husband was being tortured by police in the custody, which resulted in death of their husband and therefore, the case is to be transferred to the Central Bureau of Investigation (CBI) for the purpose of investigation.

7. The learned counsel for the petitioner mainly contended that the death occurred in the custody of the police, admittedly, even as per the report of the Deputy Superintendent of Police and as per the report of the Judicial Magistrate. Thus the death cannot be disputed and more-so, it occurred in the custody of the police and therefore, the petitioners are entitled for compensation and in respect of the action to be taken against the erred officials, further investigation is to be conducted by the Central Bureau of Investigation.

8. The learned Additional Advocate General appearing on behalf of the respondents 1 to 4 in both the writ petitions and for the seventh



respondent in WP No.34945 of 2014 brought to the notice of this Court that the criminal case registered against the deceased was closed and in respect of the allegations of custodial death, it was not established to the extent that the Judicial Magistrate observed that the external injuries are found on the right side of the body. Therefore, there is a possibility that the accused would have fell down while jumping from the Compound Wall.

9. The report further states that the injuries are symmetrical and on the right side of the body and therefore, they have drew an inference that such injuries would have caused on account of falling down while jumping from the Compound Wall. An inference drew by the Magistrate seems to be logical and there is no other injury found in the postmortem.

10. The Deputy Superintendent of Police also submitted a report on the same line and found that harassment by police was not established. Since the report of the Judicial Magistrate and the Deputy Superintendent of Police are falling on the same line, this Court is of the considered opinion that issuing a direction for further investigation to Central Bureau of Investigation would not arise at all.



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11. As far as the grant of compensation is concerned, even presuming that the death occurred due to falling of the accused while jumping from the Compound Wall, it is admitted by the Authorities that the death occurred during the custody of the police. The report of the Deputy Superintendent of Police states that the police have called 108 Ambulance and admitted the deceased at the Government Hospital at Ponneri.

12. Therefore, it is not in dispute that the death occurred was in the custody of police. When the death occurred in the custody of police on account of any reason, then the Government passed an order guaranteeing a sum of Rs.3 lakhs as compensation to the family of the deceased accused.

13. The first respondent-Government filed counter, wherein the Scheme of grant of compensation has been enumerated in paragraph-9, which reads as under:-

“The Government had issued order with regard to sanction of financial assistance to the victims those who have



been affected by Communal and Caste clashes vide G.O.Ms.No.153, Public (Law and Order-B) Department, dated 31.01.1998. As per revised orders issued in G.O.Ms.No.359, Public (Law and Order-A) Department, dated 06.04.2015, orders have been issued for sanctioning financial relief to the victims or the legal heirs of the deceased victims, who were tortured and injured by the police/prison officials in the following manner:-

<i>S.No.</i>	<i>Description</i>	<i>Financial Relief Payable</i>
1.	(i) Death due to police torture	Rs.5.00 lakh
	(ii) Death due to police firing	Rs.5.00 lakh
	(iii) Rape by police	Rs.5.00 lakh
2.	Permanent incapacitation	Rs.5.00 lakh
3.	Death in police custody where direct torture could not be established (like negligence in giving treatment etc.)	Rs.3.00 lakh
4.	(i) Victim commits suicides due to instigation/ill treatment by police	Rs.3.00 lakh
	(ii) Where there is partial incapacitations such as loss of eye/hand/limb	Rs.1.00 lakh
	(iii) Case of torture which is proved by JM/RDO inquiry (i.e., custodial violence not resulting	



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*in death/permanent/partial
incapacitation)*

Rs.1.00 lakh”

14. The case of the petitioners is falling under Serial No.3 i.e., Death in police custody where direct torture could not be established (like negligence in giving treatment etc.) Rs.3.00 lakh was granted as compensation.

15. The learned Additional Advocate General appearing on behalf of the respondents 1 to 4 in both the writ petitions and for the seventh respondent in WP No.28484 of 2013 made a submission that the police officials have immediately called 108 Ambulance and made sincere efforts to save the life of the deceased, but they could not. Therefore, they have not committed any negligence in providing treatment to the accused. Hence the writ petitions are to be rejected. However the spirit of the Government Order unambiguously stipulates that the death occurred in the police custody, where torture could not be established.

16. In the present cases, the allegation raised by the petitioners



is that the deceased died on account of torture. However, the said allegation was not established in view of the categorical report submitted by the Judicial Magistrate and the Deputy Superintendent of Police. When direct torture could not be established in the case of the death of an accused in the police custody, then other efforts taken by the police to admit the accused in the Government Hospital is immaterial. Thus the case of the petitioners is falling under Clause 3 of the Government Order issued in G.O.Ms.No.153, Public (Law and Order-B) Department, dated 31.01.1998. Accordingly the petitioners are entitled for compensation and the said compensation is to be shared between the two wives of the deceased i.e., on the ratio of 2:1 basis.

17. The learned counsel appearing on behalf of the writ petitioner namely Smt.R.Devi in WP No.34945 of 2014 made a submission that the first wife namely, Smt.Shanti, the writ petitioner in WP No.28484 of 2013 has no children and the writ petitioner in WP No.34945 of 2014, namely, Smt.R.Devi has got three children and therefore, she has to provide education and look after the other requirements of the children.



18. In view of the facts and circumstances, this Court thought fit to grant a sum of Rs.3 lakhs in the ratio of 2:1 i.e., Rs.2 lakhs to Smt.R.Devi, the writ petitioner in WP No.34945 of 2014 and a sum of Rs.1 lakh to Smt.Shanti, the writ petitioner in WP No.28484 of 2013. The said amount of Rs.3 lakhs [i.e., Rs.2 lakhs to Smt.R.Devi, petitioner in WP No.34945 of 2014 and Rs.1 lakh to Smt.Shanti, petitioner in WP No.28484 of 2013] is directed to be settled by the respondents to the respective writ petitioners, namely, Smt.R.Devi, petitioner in WP No.34945 of 2014 and Smt.Shanti, petitioner in WP No.28484 of 2013, within a period of eight weeks from the date of receipt of a copy of this order.

19. Accordingly, both the writ petitions stand allowed to the extent as stated above. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

19-04-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

1. The Secretary to Government,
State of Tamil Nadu,
Home Department,
Fort St. George,
Chennai-9.
2. The Collector,
Chennai Collector Office,
Chennai.
3. The Director General of Police,
Office of Director General of Police,
Mylapore,
Chennai-600 004.
4. The Superintendent of Police,
Office of the Superintendent of Police,
Ponneri,
Madras-600 052.
5. The Superintendent of Police,
Thiruvallur District,
Thiruvallur.
6. The District Collector,
Thiruvallur District,
Thiruvallur.
7. The Dean,
Ponneri Government Hospital,
Ponneri,
Chennai-600 052.



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S.M.SUBRAMANIAM, J.

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