



WEB COPY



W.P.No.26901 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.26901 of 2021 and
W.M.P.No.28349 of 2021

S.Selvaraj

...Petitioner

-Vs-

1. The Chief Secretary to Government,
Government of TamilNadu,
Secretariat,
Chennai-600 009.
2. The Home Secretary,
Government of TamilNadu,
Secretariat,
Chennai-600 009.
3. The Director General of Police,
O/o.The Director General of Police,
Myalpore,
Chennai-600 004.
4. The District Collector,
Collectorate,
Nagapattinam.



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5. The Superintendent of Police,
District Police Office,
Nagapattinam.

6. The Inspector of Police,
Kuthalam Police Station,
Nagapattinam District.

7. Jithan Raja ... Respondents
(R7 is impleaded by W.M.P.No.29772 of 2022 in
W.P.No.26901/2021 vide order dated 05.12.2022 by RNMJ)

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to pay the compensation of Rs.30.00lakh for the injuries sustained by the petitioner by unlawful act of the police constable named Jathan Raja, attached to the Armed Reserve Police, Nagapattinam.

For Petitioner : Mr.K.M.Subrahmaniam

For Respondents 1 to 6 : Mr.A.Gopinath,
Government Advocate (Crl.Side)

ORDER



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This Writ Petition is filed for issuance of a Writ of Mandamus directing the respondents to pay the compensation of Rs.30 lakhs for the injuries sustained by the petitioner for the unlawful act of the police constable named Jathan Raja attached to the Armed Reserve Police, Nagapattinam.

2. It is seen that this petitioner sustained bullet injuries by the act of 7th respondent who was attached to Armed Reserve Police Unit, Nagapattinam, by his gun shot on 05.05.2019 at 10.00p.m. Immediately, the petitioner was taken to Tiruvarur Medical College for medical treatment. Thereafter, he was shifted to private hospital namely Meenakshi Mission Hospital at Thanjavur for specialized treatment, since his injuries were very severe in nature. The 7th respondent was deployed for Pandobust duty for "Thiruvaduthurai Adheenam" as Personal Security Officer. The 7th respondent was a police constable attached to Armed Reserve Police Unit, Nagapattinam. He was permitted to possess arm while serving as Personal Security Officer for "Thiruvaduthurai Adheenam".



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3. The only contention raised by the petitioner is that when the 7th respondent was discharging his duties at "Thiruvaduthurai Adheenam" he developed some illegal contact with one Geetha. The said Geetha was running a petty shop near the said "Thiruvaduthurai Adheenam". While being so, on 05.05.2019 during night hours, he himself misbehaved with the said Geetha and as such one villager by name Mathivanan questioned the same. At the time of heated arguments taken place between the 7th respondent and Mathivanan, this petitioner went to the petty shop and asked some grocery items from the said Geetha. At that time, the 7th respondent intervened and enquired him. This petitioner also remarked that "are you the head of the village". Therefore, wordy quarrel arose between them. Immediately the 7th respondent shot the petitioner with his gun which was possessed by him to act as a Personal Security Officer. Therefore, the petitioner sustained injuries. This petitioner and other person were taken for hospital for medical treatment.

4. The only point arose in this writ petition for consideration is



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that whether, the 7th respondent is on duty at the time of occurrence. In pursuant to the said occurrence, the Inspector of Police, Kuthalam Police Station registered FIR in Cr.No.129 of 2019 for offences punishable under sections 324,307 of IPC and Section 27(1) of Arms Act, 1959, on the complaint lodged by the petitioner. The petitioner categorically stated that when the 7th respondent was proceeding to his home after his duty from the "Thiruvaduthurai Adheenam", the said occurrence had taken place. The Personal Security Officer will be provided with arm from the Arm Gallery by the authorities concerned while he was going for duty. After duty, they shall surrender the weapon to the Arm Gallery. Though, the 7th respondent completed his duty from the "Thiruvaduthurai Adheenam", he failed to surrender his arm to the arm gallery and he was in possession of gun.

5. There was enmity between himself and the petty shop owner Geetha. At the time of quarrel between them, the petitioner went to the shop to purchase some grocery items. Therefore, the 7th respondent was not on duty while shot the petitioner. In order to score the private vengeance, the 7th respondent shot the petitioner by his gun. That apart, in pursuant to the



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registration of FIR as against the 7th respondent on the file of the 6th respondent, now filed a final report and the same has been taken cognizance and the 7th respondent is now facing trial.

6. In so far as departmental disciplinary proceedings are concerned, already departmental proceedings are initiated against the 7th respondent and he was kept under suspension from 06.05.2019. Thereafter, a charge memo was issued to him and finally disciplinary authority had ordered "Removal from Service" by order dated 03.08.2020. The 7th respondent is no more in any service. Therefore, the incident happened between two individuals, that too after the completion of his duty as Personal Security Officer to Thiruvaduthurai Adheenam. It is also seen that the alleged occurrence took place at about 10.00p.m. Therefore, it cannot be construed as incident took place while discharging his duty. Under these circumstances, the Government is not at all vicariously liable to compensate the wrong committed by the 7th respondent. Hence, the petitioner is not entitled for any compensation from the respondents 1 to 6.

7. Therefore, the direction sought for in this writ petition cannot be



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considered. This court finds no merits in this writ petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. However, the petitioner is at liberty to proceed as against the 7th respondent seeking damage before the appropriate forum, if so advised, in the manner known to law.

01.12.2023

Index : Yes/No
Internet: Yes/No
gvn

To

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Nagapattinam.
6. The Inspector of Police,
Kuthalam Police Station,
Nagapattinam District.
7. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN,J.
gvn

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