



W.A(MD)No.452 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :07.02.2023

CORAM :

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE SUNDER MOHAN**

**W.A(MD)No.452 of 2012
and
M.P(MD)No.1 of 2012**

1.Kareem

2.Gurumoorthy

.. Appellants/Respondents 6 & 7

Vs.

1.S.Muthu

2.M.Mallika

3.Minor M.Sathiya

4.Minor M.Gopal

.. Respondents 1 to 4/ Petitioners

5.State of Tamilnadu,
Rep. by the Home Secretary,
Secretariat, Fort St.George,
Chennai.



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6.The Director General of Police,
Post Box No.601,
Dr.Rathakrishnan Salai,
Chennai- 600 004.

7.The Revenue Divisional Officer,
District Collectrate,
Tiruchirappalli.

8.The Inspector of Police,
Manapparai Police Station,
Manapparai,
Tiruchirappallai District.

.. Respondents 5 to 8/
Respondents 1 to 4

9.Chitravelu

.. 9th Respondent/5th Respondent

10.Anthoni

.. 10th Respondent/8th Respondent

[R3 & R4 are represented by R2
mother, natural guardian.]

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act,
against the order, dated 23.04.2012, made in W.P(MD)No.2943 of 2011.



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For Appellants : Mr.S.Venkatesan

For Respondents : Mr.L.Shaji Chellan
for R2 to R4

:Mr.D.Sasikumar
Additional Government Pleader
for R5 to R8

: No appearance for R1 and R9

: R10 Dismissed vide order dt.18.08.2015

JUDGMENT

DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

It is a case where the learned Single Judge of this Court ignoring the finding of the Human Rights Commission as well as report of the CBCID exonerating the police officials, who have been suspected for the death of one Moorthy @ Ramamoorthy, has allowed the writ petition seeking mandamus to grant compensation. Being aggrieved, writ appeal was filed stating that with the report of the RDO, who has conducted enquiry soon after the suspicious death of Moorthy @ Ramamoorthy, the CBI to whom



the investigation was entrusted, has found that it is only a case of suicide and not custodial torture and when the parties took up the matter to the Human Rights Commission which also enchains the view of the CBCID investigation. Merely based on the evidence of one Allimuthu-P.W.5 whose presence at the scene of crime itself is highly doubtful, the learned Single Judge has awarded a compensation of Rs.10 lakhs payable by the Government and later on, to be recovered from the respondents 6 & 7. The improper conclusion of the learned Single Judge overlooking the evidence of three different entities including the Human Rights Commission is faulted in this writ appeal.

2. The learned counsel appearing for the appellants would submit that the postmortem report of the said Moorthy @ Ramamoorthy clearly indicates that there was no external injury and except congested lungs and heart, no internal injury. The viscera report has disclosed the presence of poison. It is contended by the learned counsel for the appellants that Allimuthu, a habitual offender, has animosity with the local police, which made him to make a false statement as if the police brought the body of



Moorthy and placed it under a tree near the police station which has no corroboration and contrary to the medical evidence.

3. The learned counsel appearing for the respondents 1 to 4 submitted that the learned Single Judge, perusing the order of the Human Rights Commission, has found that the conclusion of the Human Rights Commission is erroneous since the theory of the police that the deceased Moorthy @ Ramamoorthy purchased pesticide and consumed it on his own got falsified when the owner of the drug store examined. He has denied selling any pesticide to Moorthy @ Ramamoorthy, the deceased. Further, the postmortem Doctor, who has opined that the death has caused due to consuming poison, has not been examined by the Human Rights Commission is on the pretext that the Doctor was living abroad. Relying the observations made by the learned Single judge regarding the reliability of witnesses to prove that the respondents 6 & 7 were not in the Station during the relevant point of time, found to be highly artificial. In the said circumstances, the second finding of the Human Rights Commission that the death of Moorthy @ Ramamoorthy is suspicious one and taken up for



reinvestigation by the CBCID. However, CBCID ignored all the incriminating evidence available against the respondents 6 & 7, had exonerated them and therefore, the order of the learned Single Judge, who has appreciated their evidence has to be confirmed.

4. On perusing the second postmortem report of Moorthy @ Ramamoorthy and the first postmortem report, which has been done within a gap of three days indicates that the body of the deceased Moorthy @ Ramamoorthy was exhumed and thereafter, postmortem was conducted since there was protest from the public. Initially when Human Rights Commission enquired the matter found that there was no case of torture or custodial death. But later when the W.P.(MD)No.12758 of 2001 filed by one Muthu, father of the deceased Moorthy @ Ramamoorthy suspecting the foul play in the death of his son, this Court ordered the State Human Rights Commission to conduct fresh enquiry. After conducting fresh enquiry, the Human Rights Commission, vide order dated 31.10.2005 recommended the investigation to be handed over to the CBCID for investigation and find out the reasons for the death of Moorthy @ Ramamoorthy and since he died



under suspicious circumstances, the compensation of Rs.50,000/- was also recommended. While the CBCID, which took up the investigation pursuant to the recommendation of the Human Rights Commission, has completed the investigation and exonerated the respondents 6 & 7. But the learned Single Judge has substituted his opinion and view in the writ petition, which was filed seeking compensation of Rs.10 lakhs.

5. This Court finds that the very finding of the learned Single Judge is beyond the scope of the prayer. Fixing the responsibility on the police officers namely respondents 6 & 7 for the suspicious death of Murthi @ Ramamurthi is baseless, particularly, this Court finds that the learned Single Judge has disbelieved the scientific evidence, namely, the postmortem report and had given more weightage to the interested/tainted evidence of one Allimuthu. His statement is not only tainted with malafide but also stand uncorroborated through any source and hence, the order of the learned Single Judge is liable to be set aside and accordingly set aside.



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6. Accordingly, this Writ Appeal is allowed. No Costs.

Consequently, connected miscellaneous petition is closed.

[G.J.,J.] & [S.M.,J.]
07.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No

PJL

To
1.The Home Secretary,
Secretariat,
Fort St.George,
Chennai.

2.The Director General of Police,
Post Box No.601,
Dr.Rathakrishnan Salai,
Chennai- 600 004.

3.The Revenue Divisional Officer,
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