



W.P.(MD)No.1425 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2023

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THE HON'BLE MR.JUSTICE P.DHANABAL

W.P.(MD)No.1425 of 2021

and

W.M.P.(MD)No.4662 of 2021

M.Deivam

... Petitioner

Vs.

- 1.The Government of Tamil Nadu
Represented by the
Home Secretary, Fort St.George,
Chennai-9.
- 2.The Director General of Police,
O/o.The Director General of Police,
Chennai.
- 3.The Inspector of Police,
O/o.The Inspector of Police,
Madurai.
- 4.The District Collector,
Theni District, Theni.
- 5.The Superintendent of Police,
O/o. Superintendent of Police,
CBCID, Chennai.



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6.The Superintendent of Police,
O/o. Superintendent of Police,
Theni District, Theni.

7.The Inspector of Police,
Kadamalaikundu Police Station,
Kadamalaikundu
Theni District.

8.The Sub Inspector of Police,
Mayiladumparai Police Station,
Mayiladumparai, Theni District.

9.K.R.Vijaya Baskaran

10.Murugan

11.Selvaraj

12.Sekar

13.Saraswathi

... 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 first respondent to provide Rs.5 Crores as compensation to the petitioner for the custodial torture, hand cuffing and defamation committed by the police officials namely, then Deputy Superintendent of Police Mr.K.R.Vijaya Baskaran, Inspector Mr.Murugan, Retired Sub Inspector of Police Mr.Selvaraj, Constable Sekar, based on the petitioner's representation dated 13.03.2020 within a time stipulated by this Court.



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For Petitioner : Mr.M.M.Iqbal

For R1 to R8 : Mr.R.M.Anbunithi,
Additional Public Prosecutor

For R9 : Mrs.T.Seeni Syed Amma

For R10, R11,
R12, R13 : Mr.K.Samidurai

ORDER

This Writ Petition has been filed to to direct the first respondent to provide Rs.5 Crores as compensation to the petitioner for the custodial torture, hand cuffing and defamation committed by the police officials namely, then Deputy Superintendent of Police Mr.K.R.Vijaya Baskaran, Inspector Mr.Murugan, Retired Sub Inspector of Police Mr.Selvaraj, Constable Sekar, based on the petitioner's representation dated 13.03.2020 within a time stipulated by this Court.



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2. According to the petitioner, the Sub Inspector of Police registered a false case as against the petitioner in Cr.No.85 of 2012.

Subsequently, he was arrested and sent to remand. The mandatory requirement was also not done by the respondent police. In spite of his status as serving soldier and the president of the village and integrity of his family in the village and the treatment met out to him was that of hardened criminal. The Sub Inspector of Police, Mayiladumparai Police Station made the petitioner to sit with only under garment and started beating him and also scolded him in most abusive language. He was also handcuffed and when he objected for the ill treatment by mentioning that he will report the matter to the Magistrate, his fury was increased and the respondent Nos.8 and 11 shouted him by stating that if he open his mouth to the Magistrate, all family members will be implicated in his case. He was frightened and worried about his aged parents, since he could not be with them because of his army career, he have to serve in far off places. Thereafter, he lodged complaint and FIR was registered on 05.10.2012 as against S.I. Mr.Selvaraj, Constable Mr.Sekar and 11 others in Cr.No.200 of 2012. Thereafter, the petitioner obtained information through RTI about wild allegations against him and it was established



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beyond doubt that such a false allegation is foisted against the petitioner with malafide intention. It clearly reveals that a false case has been registered against him in Cr.No.85 of 2012. The petitioner filed a separate writ petition with regard to taking disciplinary action in W.P. (MD)No.17013 of 2012 and this Court, on 13.06.2019 passed an order by observing that in view of the fact that the representation of the writ petitioner had already been considered and action has been initiated and since the enquiry is in progress, no further consideration is required in respect of the relief sought for in the present writ petition. Thereafter, he filed contempt petition. In that petition, the Superintendent of Police, Theni District filed counter stating that Mr.Selvaraj, Sub-Inspector of Police was retired from service, due to his superannuation on 31.01.2013. Originally, the petitioner was to retire from service in 2031. But he was forced to leave from force in the year 2020, because of the acts committed by the erred police officials. The act of the police officials is against law and violation of personal liberty guaranteed under Article 21 of the Constitution of India. Hence, he filed the present writ petition for the above said relief.



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3.The seventh respondent filed counter by denying all the averments made in the writ petition. Subsequently, denied the allegation that the respondents 11 and 12 attacked the petitioner and the same is nothing but blatant lie and false. It is further alleged that on 28.01.2013, based on the representation given by the petitioner, the Deputy Inspector General of Police, Dindigul range transferred the investigation of the case in Cr.No.200 of 2012 to the Inspector of Police, District Crime Branch, Theni, vide his proceedings in C.No.329/Camp/DIG/DGI 2012. After completion of investigation, the Inspector, DCB, closed the case as mistake of fact, since the complaint is false one. In the mean time, the petitioner filed a petition in CrI.OP.(MD)No.3121 of 2015 seeking direction to transfer the investigation of the case registered in Cr.No.200 of 2012, Cr.No.103 of 2013 and Cr.No.80 of 2014 and Cr.No.142 of 2014 to CBCID and this Court by an order dated 10.04.2015 transferred the investigation of the above said cases to CBCID. As per order of this Court, Cr.No.200 of 2012 was re-numbered as Cr.No.3 of 2015 and after completion of investigation, charge sheet was filed as against A7, A9 & A11 on 12.07.2016 and the same was taken cognizance by the learned Judicial Magistrate Court, Theni in C.C.No.273 of 2016 and the same is



pending. The other accused were deleted from the charge sheet after investigation. As against the deletion of accused, the petitioner filed a petition in CrI.M.P.No.5153 of 2017 before the learned Judicial Magistrate, Theni and the same was dismissed. As against the dismissal, the petitioner filed CrI.RC.(MD)No.435 of 2018 before this Court and the same was also dismissed vide an order dated 31.08.2018, wherein, in paragraph Nos.10 and 11 this Court observed as follows:-

This Court finds no force in the above said submission made, but the learned counsel in the revision petition for simple reason, that Selvaraj, Sub Inspector of Police during relevant point of time, i.e., on 22.04.2012 has arrested the revision petitioner and remanded him to judicial custody based on the complaint given by one Ramasamy. The lapse on his part point out during the investigation is non registering the complaint given by the revision petitioner. In counter affidavit filed by the respondent police, it is pointed out the revision petitioner was arrested and produced before the Judicial Magistrate for remand. He did not raised any allegation against the police regarding ill treatment. While so, as on afterthought, he has made certain allegation against the police and his falsehood has been established during the investigation done by the CBCID Police.



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In such circumstance, either Subburaj and his relatives nor police officers need to be arrayed as accused and tried in this case. This Court after appraising the materials and for the reason stated above has no hesitation to hold that the revision petition is devoid of merits. Accordingly, the criminal revision petition is dismissed.

Thereafter, the petitioner approached Hon'ble Supreme Court in SLP.No. (Crl.)1745 of 2019 and the same was also dismissed on 11.02.2019.

4.The learned counsel appearing for the petitioner would contend that the police personnels arrested the petitioner in Cr.No.85 of 2012, which was foisted against the petitioner. In that case, the police officials handcuffed the petitioner and made him sit with his under garments and thereby caused ill treatment and also breached the directions of the Hon'ble Supreme Court and violated the fundamental rights of the petitioner. For which, he already gave a complaint on 05.10.2012 and thereafter, FIR was registered in Cr.No.200 of 2012 as against the said police officials along with others and the same is pending. Now, the petitioner filed the present petition seeking compensation of Rs.5 Crores for the ill treatment of the police officials.



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5.The learned Additional Public Prosecutor appearing for the official respondents would contend that already the petitioner has given complaint and based on the same, a case in Cr.No.200 of 2012 for the offence under Sections 147, 294(b), 506(ii) IPC as against private respondent as well as two police officials and the same was investigated by the District Crime Branch and the same was closed as mistake of fact. Thereafter, investigation was entrusted to CBCID and they also elaborately investigated the case and deleted the name of the police officials and filed charge sheet. As against the same, the petitioner has filed a petition before the Magistrate and the same was dismissed and the same was went upto Hon'ble Supreme Court. However, the same was dismissed. Thereby, the official respondents were not arrayed as accused in the said case and therefore, awarding compensation would not arise in this case.

6.The learned counsel appearing for the ninth respondent would contend that in fact, the police officials were added as accused and after elaborate investigation, the names of the police officials were deleted



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from the charge sheet and thereafter, the matter went up to Hon'ble Supreme Court. The police officials are not accused in that case and the said case is still pending for adjudication. While facts are being so, without any criminal case as against the ninth respondent, petition for compensation would not arise and thereby, this petition is liable to be dismissed.

7.Heard both sides and perused the materials available in the records.

8.It is admitted fact that the petitioner arrayed as accused in Cr.No. 85 of 2012 and in this connection, he was arrested and remanded into judicial custody. The date of remand is 22.04.2012. On that date, while he was produced before the learned Magistrate, he had not stated anything about the alleged occurrence as against the police officials. In this context, the learned counsel appearing for the petitioner argued that since there was threat made by the police, hence he did not open his mouth before the Magistrate. On perusal of FIR in Cr.No.200 of 2012 reveals that the petitioner had given complaint as against the police



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officials and others dated 05.10.2012. In the complaint itself he stated that there was threat made by the police due to that he did not disclose anything before the Magistrate. When the petitioner come forward to lodge complaint as against the police officials on 05.10.2012, what prevented him to disclose the same before the learned Magistrate, when he was remand and the reason stated by the petitioner that there was threat by the police, is unbelievable and not acceptable.

9.Further, in FIR itself in paragraph No.5, the petitioner stated that when he objected for the ill treatment by mentioning that he will report the matter to the Magistrate, the police officials' fury was increased. It shows that on the date of alleged occurrence itself, he had knowledge and he decided to report before the Magistrate. But no complaint was made before the Magistrate regarding the so called ill treatment. Therefore, without any material this Court cannot pass any order in favour of the petitioner. Further, as rightly contended by the respondents that without adding the respondents as accused in the criminal case, it is not appropriate to award compensation. The learned counsel appearing for the petitioner relied upon the judgment of this Court in a case of



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Nallkaman(Dceased) (Substituted by his son Sundarapandian) Vs. The Govt.of Tamil Nadu rep by the Home Secretary and others and the same is not applicable to the present facts of the case. Further, there is no materials produced by the petitioner to prove his contention and thereby, this petition is liable to be dismissed.

10.In the result, this writ petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

31.07.2023

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

- 1.The Home Secretary, Fort St.George,
Chennai-9.
- 2.The Director General of Police,
O/o.The Director General of Police,
Chennai.
- 3.The Inspector of Police,
O/o.The Inspector of Police,
Madurai.

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4.The District Collector,
Theni District,
Theni.

5.The Superintendent of Police,
O/o. Superintendent of Police,
CBCID, Chennai.

6.The Superintendent of Police,
O/o. Superintendent of Police,
Theni District, Theni.

7.The Inspector of Police,
Kadamalaikundu Police Station,
Kadamalaikundu
Theni District.

8.The Sub Inspector of Police,
Mayiladumparai Police Station,
Mayiladumparai, Theni District.

9.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL,J.

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