



W.P.(MD)No.9201 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on: 08.09.2023	Delivered on: 29.09.2023
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THE HON'BLE MR.JUSTICE P.DHANABAL

W.P.(MD)No.9201 of 2021
and W.M.P.(MD)No.6934 of 2021

Mujeeb Rahuman

... Petitioner

Vs.

- 1.The State of Tamil Nadu represented by
The Principal Secretary to Government,
Home Department, Fort St.George,
Chennai-600009.
- 2.The Director General of Police,
Office of the Director of General of Police,
Beach Road, Chennai.
- 3.The Chief Commissioner of Customs (Preventive)
Office of the Chief Commissioner of Customs (Preventive),
No.1, Williams Road, Cantonment,
Trichy-620 001.
- 4.The Commissioner of Police,
Office of the Commissioner of Police,
Trichy District,
Trichy.
- 5.The Inspector of Police,
Airport Police Station,
Trichy.



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6.Thangamani

7.Jeyakumar

8.The Director,
Airport Authority of India-Tiruchirapalli,
International Airport,
Tiruchirapalli,
Tiruchirapalli 620 007.

(R8 is impleaded vide Court vide Court order dated 13.07.2021 in WMP.(MD)No.8271 of 2021 in WP.(MD)No.9201 of 2021)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first and second respondents to pay compensation to the petitioner for the custodial torture and illegal custody of the petitioner by the sixth and seventh respondents consequently, direct the second and fourth respondents to conduct enquiry and take action against the sixth and seventh respondents for custodial torture committed against the petitioner within the time stipulated by this Court.

For Petitioner : Mr.R.Alagumani

For R1 to R5 : Mr.R.M.Anbunithi,
Additional Public Prosecutor

For R8 : Mr.Bageerathan



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ORDER

This writ petition has been filed to direct the first and second respondents to pay compensation to the petitioner for the custodial torture and illegal custody of the petitioner by the sixth and seventh respondents consequently, direct the second and fourth respondents to conduct enquiry and take action against the sixth and seventh respondents for custodial torture committed against the petitioner within a time frame.

2. According to the petitioner, on 22.04.2021, when he was returned from Dubai through Trichy Airport at about 07.30 pm., he came out from Airport and waited for cab to go to his native place, at that time, sixth and seventh respondents were interviewed him and asked him to co-operate with the enquiry, for which, he told that already Trichy Airport authorities and custom officials checked him. Immediately, sixth and seventh respondents scolded him with abusive words and they forcibly taken his Lenova mobile phone and they compelled him to come to the fifth respondent police station. On the same day, at about 09.00 pm., the petitioner went to the fifth respondent police station and requested the sixth and seventh respondents to return his mobile. But they abused him



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in filthy language and also brutally attacked him and they forcibly punched on his left ear and he became unconscious. Thereafter, sixth and seventh respondent were taken the petitioner to the private hospital for treatment and they dropped him near Pudhukottai road and they threatened him not to tell anybody about the incident. Thereafter, on 23.04.2021, at about 10.00 am., the petitioner found blood injuries in his left ear. Immediately, he rushed to Trichy Government Hospital and Doctor advised him to take CT scan and he has been continuously taking treatment as out patient in a private hospital. The sixth and seventh respondents detained the petitioner under illegal custody and committed custodial torture by way of brutal attacking, for the reason best known to them. CCTV footages available in Trichy Airport and fifth respondent police station would clearly explain about the above said acts. The sixth and seventh respondents violated the personal liberty and committed brutal torture which is against Article 21 of the Constitution of India. Thereby, the petitioner gave a representation dated 26.04.2021 to the fourth respondent, Chief Minister of Tamil Nadu, Chairperson of Tamil Nadu State Human Rights Commission, Inspector General of Police, Central Zone and other higher officials and no action was taken. Therefore, he filed this writ petition.



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3.The sixth respondent filed counter stating that the allegations made in the affidavit with regard to the assault made by the sixth and seventh respondents and other happenings are denied. In fact, the petitioner has suppressed the material facts. The petitioner had given complaint dated 26.04.2021 as against the sixth and seventh respondents, for which, proper CSR.No.155 of 2021 dated 27.04.2021 had been issued by the Airport Police Station, Trichy. Thereafter, enquiry was fixed by the Inspector of Police, Airport Police Station on 10.05.2021, 19.05.2021 and 14.06.2021 and proper notice was also issued to the petitioner to attend enquiry. But the petitioner, failed to attend the enquiry. Thereafter, the petitioner had given written statement dated 15.06.2021 before the Inspector of Police, Airport Police Station by enclosing medical records. Those medical records shows that it is normal in nature and no any injuries sustained by the petitioner and there is no any illegal custody and custodial torture committed by the sixth and seventh respondents as against the petitioner. In fact, suo-moto FIR has been registered as against one Nagoor Meera and one Sheik Usman by the Airport Police Station in Cr.No. 196 of 2021 for the offence under Section 41(1)(d) r/w 102 Cr.P.C. Those persons have custody of suspicious jewels and thereby,



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enquiry was made and FIR has been registered and those persons were arrested and remanded to the judicial custody through learned Magistrate. The above said persons are friends of the petitioner and hence, he is motivated as against police for the prompt action taken by them. Therefore, the petition is liable to be dismissed.

4.The seventh respondent also filed counter by reiterating the facts which are stated in the counter filed by the sixth respondent.

5.The eighth respondent filed counter stating that the petitioner sought for to provide CCTV footages from the Airport dated 22.04.2021, where the aforementioned dispute was raised by the petitioner. The Airport Authority of India storage system works in a way that it does not store CCTV footage for more than one month and it get deleted automatically. Consequently, as the time duration has lapsed both from the date of the dispute and from the date of the notice, they are unable to produce the requested CCTV footage from 22.04.2021.

6.The fifth respondent has filed status report by reiterating the facts mentioned in the counter of the sixth respondent.



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7.The learned counsel appearing for the petitioner would contend that on 22.04.2021, when the petitioner was standing outside of Trichy Airport, the sixth and seventh respondents came there and enquired him and thereafter, they taken his lenova mobile phone and compelled him to come to the fifth respondent police station. He also went to the fifth respondent where the sixth and seventh respondents have assaulted him in the name of enquiry and brutally attacked him. Thereafter, he was taken to the private hospital for treatment and they dropped him near Pudhukottai road and they threatened him not to tell anybody about the incident. Therefore, the petitioner gave a representation dated 26.04.2021. But no action was taken. The petitioner is entitled for compensation for the custodial torture made by the sixth and seventh respondents and further, the second to fourth respondents have to conduct enquiry and take action as against the sixth and seventh respondents.

8.The learned Additional Public Prosecutor appearing for the official respondents would contend that this writ petition is misconceived and on 23.04.2021, the friends of the petitioner, namely Nagoor Meera and Sheik Usman were arrested in Cr.



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No.196 of 2021 on the file of the fifth respondent and thereby, this petitioner has motivated and filed this petition. There is no truth in this petition. Further, sixth and seventh respondents have not tortured the petitioner as alleged in the petitioner and already the petitioner gave a representation dated 26.04.2021 and the same was posted for enquiry and the petitioner was also called for enquiry, but the petitioner failed to participate in the enquiry. Therefore, the petitioner is not come to this Court with clean hands and thereby, this petition is liable to be dismissed.

9.Heard both sides and perused the materials available in the record.

10.On perusal of records shows that the petitioner filed this petition seeking compensation alleging that on 22.04.2021, sixth and seventh respondents taken the petitioner to the fifth respondent police station and there, they attacked him and he sustained injuries, for which, the sixth and seventh respondent taken him to the private hospital for taking treatment and thereafter, they dropped him near Pudukottai road and threatened him not to tell anybody about the occurrence. Hence, he sent representation dated 26.04.2021 and the same was not considered. Hence, he filed this writ petition.



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WEB COPY 11. According to the respondents, on the date of occurrence case registered as against the friends of the petitioner and the petitioner, in order to take revenge, filed this petition with false allegations. There is no any occurrence happened as alleged by him. The representation of the petitioner dated 26.04.2021 was posted for enquiry, but, the petitioner failed to participate in the enquiry.

12. In this case, the facts narrated in the petition are disputed by the respondents. There is no any case registered as against the petitioner and he was not arrested in any case. According to the petitioner, the police asked him to come to the police station and he also went there, at that time, they assaulted him. In order to prove his contention, the petitioner has not filed any document and the same is denied by the respondent. While so, the facts have to be proved in a manner known to law. In order to prove the facts, the petitioner has to seek remedy through civil Court, if any damages caused to him. By invoking Article 226 of the Constitution of India, this Court cannot adjudicate the manner with regard to the disputed facts and allegations are serious in nature. When the allegations denied by the respondents, it needs elaborate trial and



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thereby, the petitioner cannot seek any remedy through this writ petition, without any proper evidence.

13.The learned counsel appearing for the petitioner has relied upon the judgment in a case of Ajit Kumar Vs. State of Jharkhand and others reported in 2023 SCC Online Jhar 986 wherein, the High Court of Jharkhand held as follows:-

14.In Analyzing the aforesaid judgments of Hon'ble Supreme Court, it is crystal clear that for the lackadaisical attitude of the State of Police to arrest anyone and put him in police custody has made this petitioner to suffer the said humiliation. The cries of the human justice when he feels that the insensible act has crucified his self-respect and the petitioner, who was having a bright career and completed Staff Selection Commission Exam, thus the petitioner was illegally kept in judicial custody between 14.02.2014 to 27.07.2014 period for a crime, which has not been committed by this petitioner, who happened to be a student at that time and if the illegal detention is proved, in view of the above judgments of Hon'ble Supreme Court, the compensation under the Public law remedy can be granted by the Court under Article 226 of the Constitution of India.



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14. In a case of S. Anand Vs. The State of Tamil Nadu, Rep. by its Secretary to Government, Department of Home, St. George Fort, Chennai and others reported in 2012 SCC Online Mad 2340:(2012) 5 Mad LJ 772 : (2012) 2 CWC 507, this Court after elaborate discussions held as follows:

50. While considering the claim for compensation under public law remedy, Courts are enjoined with a duty to consider and keep in mind that the most cherished and valuable right to life under Article 21 of the Constitution of India has been infringed. The award of compensation as against the individual, or State, as the case may be, should be a reparation or recompense, for the injury caused, considering the gravity of the offence, the physical and mental suffering, medical expenses incurred etc. Remedy for infringement of the Constitutional rights, by the erring police official or any public servant is available both under private law of torts and public remedy under the Constitution of India. The victim cannot be said to be remediless, when the criminal court fails to award compensation or award inadequate compensation, without taking into consideration various factors enumerated by the Supreme Court stated supra, and on facts and circumstances of this case, not considered effectively by the criminal court, as recommended.



51.The High Court has inherent powers to do justice to a victim, who suffered infringement of fundamental rights, violating Article 21 of the Constitution of India. Even assuming that there is a alternative and adequate legal remedy, it would not be a sound exercise of discretion to refuse to interfere, unless there are good grounds made therefor. The Supreme Court has time and again held that the rule of exhaustion of statutory remedy is only self imposed limitation. Such limitation is only a rule of convenience and discretion rather than a rule of law.

52.From the legal pronouncements extracted supra, the question as to whether the High Court in exercise of its equitable jurisdiction, can award compensation to the victims of human rights violation is no longer res integra.

15.On careful reading of the above said judgments it is clear that violation of human rights under Article 21 of the Constitution of India cannot be equated to the loss sustained by a victim arising out of an accident. It is clear that while considering the claim for compensation under public law remedy, Courts are enjoined with a duty to consider and keep in mind that the most cherished and valuable right to life under Article 21 of the Constitution of India has been infringed. The award of compensation as against the



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16. In the case on hand, the allegations of the petitioner are that the sixth and seventh respondents have violated the human rights and assaulted him in the name of enquiry. But the same was denied by the sixth and seventh respondents and no case was registered as against the petitioner. Even in the petition, he has not stated how long time he was in the custody and there is no specific overt act as against the sixth and seventh respondents and all the allegations are vague and general and not specific. Therefore, the above said case laws will not be helpful to decide the case in favour of the petitioner. Therefore, this petition has no merits and deserves dismissal. The petitioner is at liberty to work out his remedy through civil Court.



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17.In the result, this writ petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index :yes/No
Internet:yes/No
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Pre-Delivery Order
made in
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