



**W.P(MD)No.13853 of 2015**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED : 13.07.2023

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.13853 of 2015  
and  
M.P.(MD)Nos.1 and 2 of 2015

Nasir

... Petitioner

Vs.

1.State Rep. by the Home Secretary,  
St.George Fort, Secretariat,  
Chennai 600 009.

2.The Superintendant of Police,  
O/o. the Superintendent of Police,  
Kanyakumari.

3.The Inspector of Police,  
Thakkalai Police Station,  
Thakkalai, Kanyakumari.

4.Mohan

5.Vijayan

6.Mohan Iyer

... Respondents



W.P(MD)No.13853 of 2015

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents No.1 and 2 to provide adequate compensation to the petitioner.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.N.Satheesh Kumar  
Addl. Government Pleader for R1 to R3.

### **ORDER**

The case of the writ petitioner is as follows:-

He is eking out his livelihood as taxi driver. He was associated with Thowheed Jamath, TMMK and Popular Front of India. On 13.12.2014 at about 11.30 am when he was driving his vehicle, the police personnel attached to Thakkalai station intercepted and illegally detained him. His car was taken away. He was brutally attacked by the police. Later, he was falsely implicated in two criminal cases. When he was produced for remand before the learned Judicial Magistrate, the injuries suffered by him were noted. Even prison authorities were reluctant to



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admit him. He seeks compensation for the torture meted out to him and return of his TATA Indica car.

2.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He also took me through the medical records indicating the nature of injuries suffered by the petitioner. He called upon this Court to allow the writ petition as prayed for.

3.The third respondent has filed counter affidavit and the learned Additional Government Pleader took me through its contents and pressed for dismissal of the writ petition.

4.I carefully considered the rival contentions and went through the materials on record. The first question that calls for consideration is whether the respondents can be directed to return the petitioner's Indica car. This direction can be given only if there is material to show that the car was seized from the petitioner. The petitioner has not placed any material before this Court in this regard. In the counter affidavit, it has



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been averred that the police never seized the petitioner's vehicle. The burden is obviously on the petitioner. This burden has not been discharged. Therefore, this Court is not in a position to endorse the petitioner's counsel's contention that there has been an illegal seizure and retention of the vehicle by the police. Hence, no direction for return of the vehicle can be issued.

5. In the counter affidavit, the petitioner's antecedents have been set out. He is said to have been accused in the following cases:-

| Crime No.         | Sections                                          |
|-------------------|---------------------------------------------------|
| Cr.No.558 of 2008 | 147, 148, 152(A), 295(A), 296, 294(b) and 307 IPC |
| Cr.No.560 of 2008 | 147, 148, 436, 427 and 506(ii) IPC                |
| Cr.No.561 of 2008 | 336 and 307 IPC & 3(1) of TNPPDL Act              |
| Cr.No.564 of 2008 | 147, 294(b), 323, 307, 326 and 506(ii) IPC        |
| Cr.No.601 of 2012 | 295(A) IPC                                        |
| Cr.No.65 of 2013  | 298(A) IPC                                        |
| Cr.No.792 of 2013 | 147, 148, 341, 294(b), 324, 307 and 506(ii) IPC   |



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The petitioner was also detained under National Security Act. The petitioner would admit in the affidavit that he was also associated with Popular Front of India. One can take judicial notice of the fact that it is now a banned organization.

6.The occurrence in question took place in connection with his arrest in Crime No.328 of 2014 on the file of Kottar Police Station. The case facts make sad reading. One Rajaram fell in love with a muslim girl by name Sameera Banu. They got married. Rajaram did not convert to Islam. On 11.04.2014 at around 07.00 am when Sameera Banu was drawing kolam outside the house, two persons attacked her with sickle causing grave injuries. In this regard, Crime No.328 of 2014 was registered on the file of Kottar Police Station. In connection with this case, Kottar police went to arrest the petitioner. According to the prosecution, the petitioner was the assailant. The police party saw one Altaf riding a bike with the petitioner in the pillion. On seeing the police, they tried to escape. In the process, both fell down and the petitioner suffered injuries. It is not as if the petitioner suffered any fracture. The medical records do not say so. The injuries found on the petitioner's



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person can occur on account of fall. This is the version of the police. I find it quite probable. In the counter affidavit, all the other allegations made by the petitioner have been controverted. The Writ Court can grant compensation. It is very much a public law remedy. But the facts giving rise to the claim must be free of controversy. Unimpeachable and convincing materials must be placed before the Court. It should be possible for the Court to accept the petitioner's allegations notwithstanding denial by the police or the state authorities. The case on hand fails to meet the aforesaid threshold requirements. I do not find any ground to grant relief and the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

**13.07.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
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**G.R.SWAMINATHAN, J.**

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