



W.P(MD)No.13886 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13886 of 2015

Punitha @ Manimegalai @ Mumthaj Begam

... Petitioner

Vs

- 1.The State represented by
The Home Secretary,
State of Tamil Nadu,
Secretariat, Fort St.George, Chennai.
- 2.The Director General of Police,
Office of the Director General of Police,
Beach Road, Chennai.
- 3.The District Collector,
Office of the District Collector,
Thoothukudi District.
- 4.The Superintendent of Police,
Office of the Superintendent of Police,
Thoothukudi District.
- 5.The Member Secretary,
State Legal Service Authority,
Chennai High Court Campus,
Chennai.



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6.The Inspector of Police,
Marupanadu Police Station,
Thoothukudi District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to pay fair and adequate amount of compensation to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.R.Alagumani

For Respondents : Mrs.K.Christy Theboral
Additional Government Pleader

ORDER

Heard both sides.

2.The writ petitioner hails from Peroor Village, Srivaikundam Taluk, Thoothukudi District. The petitioner left her native place in the year 2002 and went to Chennai. She married one Shajahan and got converted to Islam. She was blessed with two children. When she returned to her native place in February 2011, she came to know that four of her relatives had faced criminal prosecution for murder and got acquitted on 20.02.2007 in S.C.No.259 of 2005 on the file of Fast Track Court No.2 cum Additional Sessions Court, Thoothukudi. Interestingly, the charge against them was they had killed the petitioner and set fire to her body. The petitioner thereupon appeared before the



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District Collector, Thoothukudi as well as the Superintendent of Police, Thoothukudi and appraised them of the real facts. The persons who were accused of murder and who got acquitted later filed CrI.O.P(MD)Nos.4225 of 2011 and 7759 of 2011 before this bench. This Court directed conducting of DNA test on the petitioner. Based on the results, the Criminal Original Petitions were disposed of on 15.07.2015 in the following terms:

“54. In the result, these Criminal Original Petitions are disposed of in the following terms:

(i) The final report submitted by the Inspector of Police, Murappanadu Police Station in Crime No.147 of 2002 under Section 173(2) of Cr.P.C. is hereby set aside and consequently, all the consequential proceedings including the order of the lower Court taking cognizance, the trial conducted and the judgment delivered on 20.02.2007 are hereby set aside. The petitioners herein and Mr.Dhasan [the 4th Accused] shall stand discharged from the case in Crime No.147 of 2002.

(ii) Since the final report filed by the police and all the other consequential proceedings, including the judgment are set aside, the investigation of the case in Crime No.147 of 2002 shall stand reopened. The Deputy Superintendent of Police, Mr.Dharmalingam, District Crime Branch, Tuticorin, shall take up the case forthwith for investigation, conduct a thorough investigation in respect of the dead body, which was found on 05.04.2002 on the road leading to Vallakulam Village. The



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Investigating Officer shall ascertain as to whose dead body was that and bring to book the perpetrators of the crime. (iii)

The trial Court shall remit all the case records to the learned Judicial Magistrate, Srivaikundam, who shall hold enquiry, receive the final report, if any, to be filed by the police under Section 173(2) Cr.P.C. and proceed further in accordance with law.

(iv) The request of the petitioners for registration of a case against the police officers and the Village Administrative Officer and others as provided under Section 154 of Cr.P.C. is dismissed.

(v) The Secretary, Home (Police) Department, Government of Tamil Nadu, shall pay Rs.4 lakhs as compensation to each accused in S.C.No.259 of 2005 on the file of the learned Additional District and Sessions Judge, Fast Track Court No.II, Tuticorin, namely, Mr.Koilpillai, Mr.Balasubramanian, Mr.Kurunthan @ Jeyakumar and Mr.Dhasan, by means of demand drafts drawn in their respective name within a period of three months from the date of receipt of a copy of this order.

(vi) These Original Petitions shall stand dismissed in respect of all the other reliefs sought for.

...

58. Authenticity of the judicial system rests on public confidence and the public confidence rests on legitimacy of judicial system. I part with this case with pain that the time tested criminal justice delivery system has been put to perils in



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this case degenerating the confidence of the people in the system. Had this woman, Mrs.Manimegalai not gone to the District Collector, the travesty of justice declaring her dead would have been perpetuated . But, for these petitions filed by the petitioners, this mockery would not have been corrected. I am satisfied that though belated, justice is done to the aggrieved at least now. As Mahatma Gandhi, the Father of the Nation preached, “Truth is a powerful weapon which unfailingly triumphs.” In this case, at last, truth has triumphed.”

The petitioner, thereafter, sought compensation. Since it was not considered, the present writ petition came to be filed.

3.The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

4.The respondents have filed counter affidavit and the learned Additional Government Pleader took me through its contents. The respondents rely on some of the observations made in order dated 15.07.2015 in the aforesaid Criminal Original Petitions. The learned Judge had observed that the Investigating Officers did not act with malice. According to the respondents,



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the Investigating Officer had discharged his duties in good faith and therefore the petitioner has no case for payment of compensation. She is also leading a happy life. The respondents deny the petitioner's claim that her privacy has been infringed and that she had to undergo immense mental agony and anguish. The respondents pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record.

6.The petitioner had left her native place in the year 2002 itself. The case was registered as if the petitioner was murdered. Four innocent persons were implicated. Eventually, they got acquitted in the year 2007 itself. Nothing was heard about the writ petitioner. It was the writ petitioner who happened to return to her native place in the year 2011 and brought to the notice of the authorities that she is very much alive. Therefore, this Court had referred to the petitioner in glowing terms. Hence, the claim that her rights has been infringed and she was disturbed cannot be accepted.

7.But, however, there is a case for grant of compensation. Though the writ petitioner on her own took up the matter, the petitioner had definitely troubled herself considerably. She had to go to the District Collector, the



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Superintendent of Police, the jurisdictional Deputy Superintendent of Police, jurisdictional Revenue authorities and the Inspector of Police. She had to come to Madurai Medical College Hospital to offer his DNA samples. She attended this Court also. The petitioner is in Chennai. She had to come down to Thoothukudi on every occasion. Since she was having minor children, she could not come alone. She had to bring them along. Her husband also accompanied her. I may not accept the memo filed by the petitioner at its face value, because it is not backed by any material. The petitioner is not able to produce any material to show that the petitioner was made to come on every occasion. No enquiry notice or summon has been produced before this Court. However, this Court can definitely assume that the petitioner had to visit Thoothukudi on quite a few occasions. She would have definitely incurred expenditure.

8.Since it is eventually for the cause of justice, it is the State that has to compensate the petitioner. I direct the first respondent to pay a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) to the petitioner towards compensation for the expenditure incurred by her. This amount shall be paid within a period of eight weeks from the date of receipt of a copy of this order.



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9. This writ petition is allowed on these terms. There shall be no order as

to costs.

08.08.2023

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

To

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Chennai.
- 2.The Director General of Police,
Office of the Director General of Police,
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G.R.SWAMINATHAN, J.

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