



W.P.(MD).Nos.13228, 13229, 14069, 14070, 14071, 14072, 14073 and 14074 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).Nos.13228, 13229, 14069, 14070, 14071, 14072, 14073 and 14074
of 2018

and

W.M.P.(MD).Nos.12059, 12060, 12061, 12062, 12752, 12753, 12754, 12755,
12756, 12757, 12758, 12759, 12760, 12761, 12762 and 12763 of 2018

W.P.(MD).No.13228 of 2018:

J.Ravikumar

... Petitioner

Vs.

1.The State,
Represented by,
The Secretary to Government,
Public (Law & Order) Department,
Government of Tamil Nadu,
Fort.St.George,
Chennai – 600 009.

2.The Director General of Police,
Chennai – 600 004.

3.The District Collector,
Kanyakumari District.



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4. The Member Secretary,
The National Human Rights Commission,
Manav Athikar Bhavan,
C-Block, GPO Complex INA,
New Delhi – 110 023.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order of the first respondent in G.O.Ms.No.51 Public (Law & Order) Department dated 10.01.2018 and quash the same insofar as the petitioner is concerned.

(In W.P.(MD).Nos.13228 and 13229 of 2018):

For Petitioners	: Mr.S.Ram Sundar Vijayraj, For M/s.Veer Associates
For R-1 to R-3	: Mr.N.Muthuvijayan, Special Government Pleader.
For R-4	: Mr.S.Ragaventhre



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(In W.P.(MD).Nos.14069, 14070, 14071, 14073 and 14074 of 2018):

For Petitioners : Mr.M.Saravanan
For R-1 to R-4 : Mr.N.Muthuvijayan,
Special Government Pleader.
For R-5 : Mr.K.Ashok Kumar Ram

(In W.P.(MD).No.14072 of 2018):

For Petitioner : Mr.Prabhu Selvakumar
For R-1 to R-4 : Mr.N.Muthuvijayan,
Special Government Pleader.
For R-5 : Mr.K.Ashok Kumar Ram

COMMON ORDER

These Writ Petitions are filed challenging the G.O.Ms.No.51 Public (Law & Order) Department dated 10.01.2018. The issue raised in all these writ petitions is one and the same. Hence a common order is passed.



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2. The facts as stated in W.P.(MD).No.13228/2018 is that the petitioner joined as Sub Inspector of Police on 01.02.2011 and has completed 7 years of service. On 01.09.2012, he reported to duty on 9.00 a.m. On the previous day, he was posted in the bandobust duty at Kaliyakkavilai. The contention of the petitioner is that on the previous day, he was not in station especially on 30.08.2012 and 31.08.2012. He was relieved on 31.08.2012 by 2.00 p.m. However to the shock of the petitioner, the first respondent has issued impugned G.O.Ms.No.51 Public (Law & Order) Department dated 10.01.2018, wherein, the Government has passed the said Government Order to deduct salary from the 8 police officials until Rs.5,00,000/- (Rupees Five Lakhs only) is collected from them, since the Human Rights Commission has directed the Chief Secretary of the Tamil Nadu Government to collect Rupees Five Lakhs from the erring officials. The learned counsel appearing for the petitioners submitted that the Human Rights Commission has issued only Show Cause notice dated 23.01.2017. Referring to the said show cause notice the government has issued the impugned G.O. to collect the amount. The said show cause notice is produced hereunder:



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Case No. 245122/512012-PD/CB/J
NATIONAL HUMAN RIGHTS COMMISSION
(Law Division/EC Branch)

MANAN ADHIKAR BHAWAN
BLOCK 'D' SPICO COMPLEX
INA, NEW DELHI-110023

38.5
24.11.12

SHOW CAUSE NOTICE

The Chief Secretary,
Govt. of Tamil Nadu,
Chennai- 600 009

1. WHEREAS the Commission on 17.09.2012 took cognizance of death of one Kumar Sri Maheshan aged 46 years in police custody while undergoing treatment at GVM Hospital on 01.06.2012;

2. AND WHEREAS the Commission called for reports from the SP, Kambhakuram and other concerned authorities. The reports were analyzed by the Investigation Division. The Commission has found in the request report that he had a number of excess injuries on his body, particularly, swelling in the right side cheek below the ear, blood spot on the private part, bleeding from the nose and mouth, contusions all over the body etc.

3. AND WHEREAS the Magisterial Enquiry Report revealed that the family members of the deceased found Mr. Kumar bleeding inside the police station and took him to the hospital where he died. The inquiry magistrate concluded that that the deceased Kumar was illegally detained in the police Station in the night of 31.8.2012 and was beaten by the police officers.

4. AND WHEREAS upon consideration of the reports, the Commission vide proceedings dated 30.11.2012 observed and directed as under:

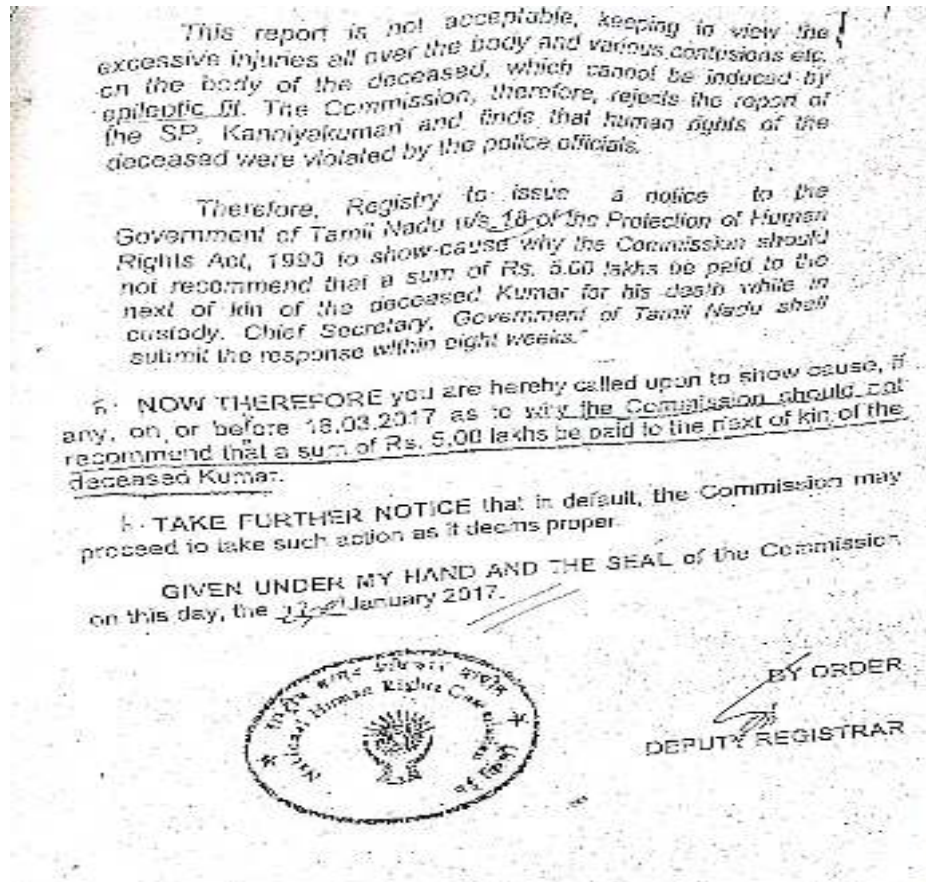
"The Commission finds that local police has failed to explain those excess injuries which were on him in police custody. The report received from the Superintendent of Police only mentions that he suffered entrapment in station station and his tongue which resulted in profuse bleeding.

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3. On perusing the aforesaid show cause notice, it is seen that the Human Rights Commission has issued a show cause notice to the Government as to why an order shall not be passed to recover Rupees Fifty Lakhs from the erring officials. The Government after receiving show cause notice has passed the impugned Government Order without conducting any enquiry, without issuing any show cause notice to the erring official.



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4. Therefore, this Court is of the considered opinion that the Government has passed the impugned G.O. in a hurried manner without taking any factors into consideration.

5. When the Writ Petitions were taken up for hearing, the learned counsel appearing for the petitioners brought to the knowledge of this Court about the subsequent events. The allegation of human rights violation was considered by the District Munsif cum Judicial Magistrate in Crime No.386/2012 in R.C.No. 58/2017 vide order dated 29.06.2017 and the learned Magistrate has closed the said case itself. The relevant portion is extracted hereunder:

Cr.No.386/2012

RC.No.52/2017

ORDER DATED 29.06.2017

Defacto complainant called absent. No representation for defacto complainant who is the mother of deceased. No objection filed AD card received. Hence objection closed. The Investigation Officer filed the final report as this case may closed as action dropped Records perused. The 161 statements perused. The final report of Investigation Officer is accepted. This case closed.

(Sd./-)

Principal District Munsif-cum-
Judicial Magistrate, Eraniel.

29-06-2017.



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6. Since the said issue itself is closed, the first respondent cannot proceed with the recovery as stated in the G.O. However, the case is still pending before the Human Rights Commission. Therefore, this Court is of the considered opinion that the first respondent shall keep the impugned G.O. in abeyance and after the disposal of the petition in the Human Rights Commission, the first respondent shall take appropriate action, after granting adequate opportunity to the petitioners.

7. In view of the above, the Writ Petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

03.02.2023

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



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To

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Public (Law & Order) Department,
Government of Tamil Nadu,
Fort.St.George,
Chennai – 600 009.
- 2.The Director General of Police,
Chennai – 600 004.
- 3.The District Collector,
Kanyakumari District.
- 4.The Superintendent of Police,
Kanyakumari District at
Nagercoil.
- 5.The Member Secretary,
The National Human Rights Commission,
Manav Athikar Bhavan,
C-Block, GPO Complex INA,
New Delhi – 110 023.



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S.SRIMATHY, J.

Nsr

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