



W.P.No.1398 of 2023
and W.P.Nos.15306 & 15360 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on 07.11.2023

Order delivered on 12.01.2024

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.1398 of 2023
and
W.P.Nos.15306 & 15360 of 2022
and
W.M.P.No.1473 of 2023
and
W.M.P.Nos.14473 & 14510 of 2022

W.P.No.1398 of 2023

Indira,
W/o late Selvam

.... Petitioner

VS

1. State Human Rights Commission,
rep. by its Registrar,
143, P.S.Kumarasamy Salai,
Chennai - 28.02.2015
2. State of Tamil Nadu,
rep. by its Chief Secretary to Government,
Fort St.George,
Chennai - 9.



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3. The Director General of Police,
Tamilnadu,
Chennai - 4.

4. Balamurugan,
S/o Muthu then Inspector of Police,
Sholavaram, PS,
Thiruvallur District.

now Asst.Commissioner,
Vadapalani Range, Chennai.
residing at No.391, Aishwarya Jayam Apartment,
Raji Lane and Street, Ayanavaram, Chennai-23.

5. Kumar,
S/o Kittappa,
then SI of Police, Sholavaram PS,
Thiruvallur District.
now SI of Police,
D-6, Pothaturpettai PS, Thiruvallur District.

residing at Mettu Theru, Gudalore Village,
Sholingar,
Ranipet District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents 2 to 5 to pay the enhanced compensation of Rs.50,00,000/- to each of the legal heirs of the deceased Selvam died on 8.8.2016 in the police custody at E-5, Sholavaram Police Station due to the Human Rights Violations and further direct the 2nd



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respondent to initiate appropriate disciplinary action as against the respondents 4 and 5.

For Petitioner	: Mr.K.Perumal
For Respondents	: Mr.K.Sivasubramanian for R1 Mrs.R.L.Karthika Government Advocate for R2 & R3 Mr.P.Raja for R4 Mr.R.John Sathyan for R5

W.P.No.15306 of 2022

K.Kumar,
S/o G.Kittappa
Then Sub-Inspector of Police,
Sholavaram Police Station,
Thiruvallur District.

At present: Sub-Inspector of Police,
D-6, Pothattur pettai Police station, Thiruvallur District.

Resident of Mettu Theru, Koodalur Village,
Sholingar, Ranipet District.

.... Petitioner

vs

1. State Human Rights Commission-Tamilnadu,
Represented by tis Registrar,
143-P.S.Kumarasamy Rajaji Salai,
Greenways Road,
Chennai - 600 028.



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2. Selvam (Deceased)
represented by Defacto-Complainant - Indira,
Wife of Late.Selvam,
3/195, Thanthai Periyar Street,
Aathur Village, Sholavaram Taluk,
Thiruvallur District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
to issue a Writ of Certiorari to call for the records of the impugned proceedings
of the 1st respondent in SHRC Case No.5796 of 2016 dated 30.03.2022 and
quash the same.

For Petitioner : Mr.R.John Sathyan

For Respondents : Mr.K.Sivasubramanian for R1
Mr.K.Perumal for R2

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Balamurugan
S/o Muthu
Then Inspector of Police,
Sholavaramm Police Station,
Thiruvallur District

At Present : Assistant Commissioner of Police,
Vadapalani Range, Chennai,
residing at No.39, G-1, Aishwarya Jayam Apartment,
Raji Lane & street, Ayanavaram,
Chennai - 600 023.

.... Petitioner



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VS

1. State Human Rights Commission-Tamilnadu,
Represented by its Registrar,
143-P.S.Kumarasamy Rajaji Salai,
Greenways Road,
Chennai - 600 028.

2. Selvam (Deceased)
represented by Defacto-Complainant - Indira,
Wife of Late.Selvam,
3/195, Thanthai Periyar Street,
Aathur Village,
Sholavaram Taluk,
Thiruvallur District.

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Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the impugned proceedings of the 1st respondent in SHRC Case No.5796 of 2016 dated 30.03.2022 and quash the same.

For Petitioner

: Mr.R.John Sathyan

For Respondents

: Mr.K.Sivasubramanian for R1
Mr.K.Perumal for R2



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COMMON ORDER

(Order of the Court was made by J.NISHA BANU, J.,)

1. (i) **W.P.No.1398 of 2023** has been filed for issuance of a Writ of Mandamus to direct the respondents 2 to 5 to pay enhanced compensation of Rs.50,00,000/- (Rupees Fifty Lakhs) to each of the legal heirs of the deceased Selvam, who died on 08.08.2016 in the police custody at E-5 Sholavaram Police Station due to the Human Rights violations and further direct the 2nd respondent to initiate appropriate disciplinary action as against respondents 4 & 5.

(ii) **W.P.Nos.15306 & 15360 of 2022** have been filed by the K.Kumar, the then SI of Police and Balamurugan, the then Inspector of Police of Sholavaram Police Station, Thiruvallur District, challenging the order dated 30.03.2022 passed by the 1st respondent/State Human Rights Commission, in which, the Commission recommended that the Government of Tamilnadu shall pay a compensation of Rs.3,00,000/- to the legal heirs of the deceased Selvam within eight weeks from the date of receipt of a copy of the recommendation and the Government of Tamil Nadu may recover Rs.1,50,000/- each from these petitioners as compensation as per Rules.



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2. The brief facts of the case of the petitioner in W.P.No.1398 of 2023 is that the husband of the defacto complainant was taken by the Police at 4.45 a.m from his house on 8.8.2016 in connection with Crime No.525/2016 for the offence under sections 341, 294, 323, 324, 506(ii) IPC r/w 4 of Tamilnadu Women Harassment Act by Sholavaram Police and he was tortured in custody in an inhuman manner. Based on the news published in "The Times of India" magazine dated 10.08.2016, a *suo motu* case was registered and enquired in ID.No.54DGP/SHRC/2016, SHRC Case No.5796/2016/HCP by State Human Rights Commission against police personnel of Cholavaram PS, Thiruvallur District, for the death of Selvam, S/o Ekambaram, who was in police custody on 08.08.2016. The post mortem report states that there are 17 injuries found in the body. Thus, the investigating officer is responsible for the infliction of those injuries found in his body. The cause of death also mentioned about the multiple tissue injuries. Regarding this incident, a case in Crime No.382/16 was registered by Ponneri PS under Section 176 Cr.PC. on 08.08.2016 and has been transferred to CBCID for further investigation on 15.08.2016 and still pending at that stage. The State Human Rights Commission, after enquiry, found that the 4th & 5th respondents/petitioners in W.P.Nos.15306 & 15360 of 2022 are responsible for the death of Selvam and



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recommended for a minimum compensation of Rs.3,00,000/- to the legal heirs of Selvam. Hence, W.P.No.1398 of 2023 is filed for enhancement of compensation.

3. Aggrieved by the order dated 30.03.2022 passed by the State Human Rights Commission, the police personnel have filed W.P.Nos.15306 & 15360 of 2022 challenging the same.

4. (i) Learned counsel for the petitioner in W.P.No.1398/2023 would submit that from the enquiry report of SHRC, it is clear that the Investigation Officer- SI Kumar, Station House Officer- Inspector Balamurugan and Siva-Head Constable and Srinivasan-Head constable, the police personnel who arrested the accused are responsible for the injuries found in the body of the deceased. Learned counsel would further submit that the fate of the criminal proceedings based on the FIR in Cr.No.382/16 that stood transferred to CBCID for further investigation as early as on 15.08.2016 is not known and the representation sent through the petitioner's counsel dated 22.06.2022 is also not complied with.

(ii) Learned counsel would further submit that even the Medical



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Officers were supporting the police personnel. The duty Medical Officer Dr.Vijayanand, who attended the deceased at 8.30 p.m. on 8.8.2016 states that there was no injuries found in the body of the deceased and he further states thereafter within half an hour at 9.10. p.m. on the same date, that the deceased was brought in unconscious state with injuries and was brought dead. Learned counsel would state that the Medical Officer would not have seen the deceased and he would have made remarks based on the statement of the police personnel. The jail officers were also supporting the police personnel. The respondents 4 & 5, in order to escape from the offences committed, were attempting to alter the charges in Crime No.525/2016 pending in Sholavaram PS, where the deceased and others were shown as accused, into one under POCSO Act, after the State Human Rights Commission had taken *suo moto* cognizance as early as on 18.08.2016 on the basis of the report of "The Times of India" Magazine. Learned counsel would further submit that the petitioner is continuously running behind the office of the District Collector, Thiruvallur and other officials but there is no result. He would submit that the petitioner and her children are starving and the police personnels involved are not even facing any disciplinary proceedings under their department and on the other hand, they were promoted and serving in the



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higher posts.

(iii) Learned counsel would further submit that the deceased husband is the only breadwinner of the family and the petitioner, who is now working as maid servant, is finding very difficult to maintain her family. He would submit that after a clear findings, the Commission, while arriving at a quantum of compensation, awarded only Rs.3 lakhs, which is bare minimum. Therefore, he seeks for enhancement of compensation of Rs.50,00,000/- to each of the legal heirs of the deceased Selvam who died on 8.8.2016 in police custody due to human rights violations and to further direct the 2nd respondent to initiate appropriate disciplinary action as against the respondents 4 and 5.

5. (i) Per contra, the learned counsel appearing for the 4th and 5th respondents/petitioners in W.P.No.15306 & 15360/2022 denied all the allegations made against the 4th and 5th respondents and would submit that there was no physical assault nor violation of human right in the Police Station. During the course of investigation, in respect of the case in Crime No.525 of 2016, the petitioners came to know about the whereabouts of the accused persons and three persons viz., Selvam (since dead), Murali and



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Ganapathy were arrested at about 10.30 a.m. on 08.08.2016 and they voluntarily confessed about their involvement in the occurrence held at temple festival and they were taken to the police station. He would further submit that the relative of the accused Selvam and his Advocates were present when all he accused were taken out of Police Station for remand and they interacted with the deceased accused. Thereafter, on the confession statement given by Murali in the presence of witnesses, wooden log used for the commission of offence was seized from the scene of occurrence and on the instruction of the superiors, at about 6.00p.m., the accused were taken for remand by Special Sub Inspectors Mr.Lakshikath Rao & Mr.Ravi and Head Constable Mr.Srinivasan, after subjecting them for medical check up at Government Hospital, Ponneri and they were produced before the learned Magistrate and subsequently, remanded to judicial custody at about 19.50 hours. At about 9.30 p.m., while the deceased Selvam was taken to Sub Jail, Ponneri, after complying the formalities by the Jail Warden, at that juncture, the deceased Selvam had epileptic seizure and he fell down and sustained injuries on the back of his head. The escort took him to the Government Hospital, Ponneri, where he was declared dead.

(ii) Learned counsel would further submit that the 1st



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respondent/Commission, without proper appreciation of materials placed before it and without giving fair opportunity to the petitioners, has passed the impugned order. He would further submit that the enquiry officer of the Commission examined one Murali and Ganapathy as witnesses in this case. In their statement, it is clear that they have been arrested along with the deceased Selvam, they were treated properly, they were allowed to sit in the police station till 6.00 p.m. and they were not beaten or ill treated by the police personnel in the police station and after completing all the formalities in the police station, they were taken to Judicial Magistrate. Further, the 2nd respondent was examined by the Investigating officer and a statement was also recorded from her, in which, she had clearly stated that on the date of occurrence, she was present in the police station and had seen her husband while he was taken for remand and she only signed in the arrest intimation of her husband. At that time, she did not whisper anything about any injuries on the body of her husband. He would further submit that the deceased and other two persons were remanded to judicial custody by the learned Judicial Magistrate, No.II, Ponneri, in which, there is no complaint against the petitioners or any other police officials and the same was also recorded by the learned Magistrate while passing remand order but the same was not properly



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considered by the Commission and the learned Magistrate, who remanded the deceased person was also not examined by the enquiry officer of the Commission. Further, as per the post mortem, the medical opinion is that the injuries noted in the gluteal region in the hand and the feet of the deceased are not sufficient to cause death. Learned counsel would further submit that there is no physical violence or any violation of human rights of the deceased and hence, the order of the 1st respondent is liable to be set aside.

6. Heard the learned counsel appearing on either side and perused the materials available on records.

7. For the sake of convenience, the petitioners in W.P.No.15306 & 15360/2022/police personnel are referred to as the petitioners and the wife of the deceased/2nd respondent in W.P.No.15306 & 15360/2022 is referred to as the 2nd respondent and the State Human Rights Commission/1st respondent in all the writ petitions, as the Commission.

8. Originally, a complaint was received by K.Kumar, S.I. of Police (Petitioner in W.P.No.15306/2022) on 08.08.2016 at 8.30 a.m. from one Mani



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@ Manikandain against 4 named persons viz., Selvam (deceased), Murali, Ganapathy and Babu, alleging that while his sister, aged 16 years, was returning from temple after participating in fire walking prayer at temple, the said persons passed sexual comments and when the same was questioned by him, Babu snatched the garland from his sister's neck, Selvam torn her blouse and Manikandan attacked him and his sister with wooden log and others hit them with hands and caused injuries to them as well as sexual harassment to his sister. They also threatened them not to reveal anything to anyone or else, they will be done to death. Based on the said complaint, a case was registered in Crime No.525 of 2016 for the offence under sections 341, 294, 323, 324 and 506(ii) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

9. Thereafter, the police personnel arrested three persons namely Selvam (deceased), Murali and Ganapathy at 10.30 a.m. and they voluntarily confessed about their involvement in the occurrence held at temple festival and their confessional statement were recorded and the wooden log used for the commission of offence was seized from the scene of occurrence and they were taken to police station and handed over to the police persons on duty after



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completing all the formalities. The Special Sub-Inspectors, Lakshmikanth Rao and Ravi and the Head Constable Srinivasan, had taken the accused for remand after subjecting them to medical check up at Government Hospital, Ponneri and they were produced before the learned Magistrate and then remanded to judicial custody at about 19.50 hrs.

10. The said Selvam was taken to Sub Jail, Ponneri by Special Sub Inspectors Ravi and Lakshmikanth Rao and all the formalities were complied with by the Jail Warden. It is alleged that at that time, the deceased Selvam had epileptic seizure and fell down and sustained injury on the back of his head. Hence, he was taken to Government Hospital, Ponneri, where he was declared brought dead. Hence, the Chief Head Warden of Ponneri Sub Jail registered a complaint before the Ponneri Police Station and the same was registered in Crime No.382 of 2016 and the Inspector of Police, Ponneri Police Station took up investigation and requested the Chief Judicial Magistrate, Thiruvallur to appoint a Magistrate to conduct investigation under section 176 of Cr.P.C. on the suspicious death of the said Selvam. Based on the report submitted by the Investigating officer, the State Human Rights Commission issued summons to the petitioner on 10.05.2019 and finally, came to the



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conclusion that the petitioners have committed human rights violation and passed an order as referred to above.

11. It is pertinent to point out that the wife of the deceased Selvam was present while Selvam was taken to judicial custody and she only signed for the arrest intimation of her husband, in which, she has not whispered anything about any cruelty committed on her husband nor stated anything about the injuries on his body. It is also seen from the records that the learned Magistrate who remanded the deceased person was not examined by the enquiry officer of the Commission.

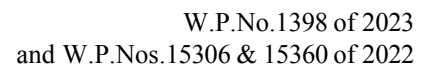
12. Admittedly, the enquiry officer enquired the doctor Mr.Vijay Anand as a witness and on 12.08.2016, he had given statement that he examined the deceased Selvam on 08.08.2016 at about 8.30 p.m. and there was no specific complaint of illness nor he was under medication and complained of body pain and he did not find any external injuries in the body of the deceased and thereafter, on the same day, at about 9.10. p.m., Selvam was brought back by the same police with a complaint that he fell down and sustained injury on the back of his head and became unconscious. On examination, he found lacerated



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wound on his occipital region which was bleeding profusely and he was declared dead. There was no injuries found when the deceased was remanded to judicial custody. Therefore, without any allegations of harassment or threat by the police, such conclusion regarding human rights violation, as concluded by the State Human Rights Commission, cannot be countenanced.

13. Further, one of the witnesses Dr.Ramalingam has stated that he conducted autopsy over the body of the deceased and found injuries and he opined that the deceased died of 'Asphyxia due to aspiration of food particles into respiratory tract' and also the injuries found in the body are not sufficient to cause death. None of the witness had stated that they witnessed the assault committed by the petitioners, as a result of which, injuries could have been caused. Though number of witnesses were examined by the investigation officer, none of the witnesses were produced by the investigation officer before the Commission and only based on the report given by the investigation division, the findings have been given by the Commission. The Commission failed to examine any of the witnesses nor afforded any opportunity to the petitioners to cross examine the witnesses who were examined by enquiry officer which is against the object of the Protection of Human Rights Act and



14. It is also seen from the records that the deceased Selvam did not make any complaint of torture at the time of remand and the same has been recorded in the remand order of the learned Judicial Magistrate-II, Ponneri. Similarly, the deceased Selvam did not make any complaint to the Duty Doctor at Ponneri Hospital during his examination and the Medical officer has certified as "Normal and fit" for judicial custody and the Medical Officer has also not noted any injuries.

15. Further, when the deceased was produced before the jail authorities at Ponneri, the proforma for health screening was prepared and there was no physical injury recorded therein. The deceased suffered 'epilepsy attack' at the Sub-Jail, Ponneri and died due to 'Asphyxia due to aspiration of food particles into respiratory tract'. Even as per the post mortem, the medical opinion is that the injuries noted in the gluteal region in the hand and the feet of the deceased are not sufficient to cause death. The petitioners/police personnel cannot be accused of human rights violation immediately without proper examination.



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Even as per the medical report, the death occurred not due to any untoward incident as alleged in the news report. Further, none of the witnesses had stated that the petitioners physically assaulted the deceased. Thus, the present case is not one which can be classified as a human rights violation.

16. In view of the above discussion, we of the view that the petitioners in W.P.Nos.15306 & 15360/2022 have not committed any human rights violation and thus, the impugned proceedings of the 1st respondent dated 30.03.2022 is liable to be set aside. Accordingly, impugned proceedings of the 1st respondent passed in SHRC Case No.5796 of 2016 dated 30.03.2022 is hereby set aside.

17. In the result, W.P.No.1398 of 2023 is dismissed. W.P.Nos.15306 & 15360 of 2022 are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(J.N.B., J.) (N.M., J.)
12.01.2024

vsi
Index : Yes / No
Internet : Yes / No



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To

1. The Registrar,
State Human Rights Commission,
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Chennai - 28.02.2015
2. State of Tamil Nadu,
rep. by its Chief Secretary to Government,
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J. NISHA BANU, J.
and
N.MALA, J.

vsi

Pre-delivery order in
W.P.No.1398 of 2023
and
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12.01. 2024