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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :10.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA  
and  
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A.(MD) No.582 of 2018

Stalin

... Appellant

-vs-

1. The Director General of Police  
Chennai - 600 004
2. The Superintendent of Police  
Thanjavur District, Thanjavur
3. Muthurasu  
Then Inspector of Police  
Tamil University Police Station  
Thanjavur
4. Ravichandran  
Then Inspector of Police  
Tamil University Police Station  
Thanjavur
5. Ganesan  
Police Constable working in  
Tamil University Police Station  
Thanjavur

... Respondents



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Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 14.09.2017, passed in W.P.(MD) No.13278 of 2011 on the file of this Court.

For Appellant : Mr. P.T.Ramesh Raja  
for Mrs. Mandhiralingeswaran

For R1 & R2 : Mr.A.Kannan  
Additional Government Pleader

For R3 : Mr.S. Alagarsamy

For R4 & R5 : Mr.N. Tamilmani

### **J U D G M E N T**

**[Judgment of the Court was made by A.D.JAGADISH CHANDIRA, J.]**

This Writ Appeal has been filed as against the order passed by the learned Single Judge in W.P(MD) No 13278 of 2011 dated 14.09.2017.

2. The learned Single Judge has dismissed the petition filed by the writ petitioner observing as follows:

*"3.The case of the petitioner is that he was falsely implicated in Crime No.189 of 2009 on the file of the second respondent police and he was taken illegal custody by respondent police on 09.07.2009 and after filing Habeas Corpus Petition No.429 of 2009, the petitioner was remanded before the Judicial Magistrate on 22.07.2009. Hence the*



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*present Writ petition has been filed.*

*4.The learned counsel for the petitioner would submit that the petitioner's daughter made a representation to the second respondent on 14.07.2009 alleging that her father was kept in illegal custody. But he was remanded only on 22.07.2009 and further submitted that in the Criminal case, the petitioner was acquitted.*

*5.The learned Government Advocate appearing for the respondents would submit that the statement of the witnesses in the Criminal case would establish that the petitioner was not in illegal custody on 09.07.2009 and the disputed question of facts cannot be decided in this writ petition*

*6. Considering the facts and submissions of the learned counsel for the respondents this writ petition is dismissed with liberty to the petitioner to approach the competent civil court to redress his grievance".*

3. The learned counsel appearing for the appellant/writ petitioner would submit that the petitioner was taken into illegal custody on 14.07.2019 and only after the Habeus Corpus Petition was filed by the family members the petitioner was produced before the Court and remanded to judicial custody on 22.07.2009. Further taking into consideration that the petitioner was in illegal detention the trial Court has also acquitted the petitioner, whereas the learned Single Judge based on the submission made by the learned Government Advocate had dismissed the application. The statement of the



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witnesses in the criminal case would establish that the petitioner was in illegal custody and thereby the petitioner is entitled for compensation.

4. The learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that earlier the petitioner has filed a Habeus Corpus Petition in HCP(MD) No. 92 of 2009 before this Court and this Court while closing the petition has observed as follows:

*"As on date, the detenue is in judicial custody in connection with a criminal case and as such, there is no illegal custody. Therefore, this Habeus Corpus Petition is closed. However, if the petitioner is aggrieved over the alleged illegal detention of the detenue prior to the judicial remand, it is open to the petitioner to take appropriate steps in accordance with law".*

5. He would further submit that there are several disputed question of facts in this case and such being so the issue of illegal custody cannot be agitated before this forum and it can only by way of challenge before the Civil Court or before the Human Rights Commission, which is entitled to conduct enquiry.



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6. Perused the order passed by the learned Single Judge and the materials placed on record.

7. It is the case of the petitioner that he was in illegal custody, whereas it is the case of the respondent that the petitioner was not in illegal custody. The issue concerned several disputed question of facts which cannot be agitated before this forum. The learned single Judge rightly holding that the disputed question of facts cannot be decided in the writ petition has dismissed the same. We do not find any infirmity or illegality in the order passed by the learned Single Judge.

8. In view of the same, the Writ Appeal stands dismissed. However liberty is granted to the appellant to approach the appropriate forum for redressal of his grievance. No costs.

[A.D.J.C., J.]

[K.R.S., J.]

10.06.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

1. The Director General of Police  
Chennai - 600 004
2. The Superintendent of Police  
Thanjavur District, Thanjavur



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**A.D.JAGADISH CHANDIRA, J.**  
**AND**  
**K.RAJASEKAR, J.**

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