



W.P(MD)No.15652 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2024

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CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

W.P(MD)No.15652 of 2017
and
WMP(MD)No.12373 of 2017

Amutha

... Petitioner

Vs.

- 1.State of Tamilnadu,
Represented by its Secretary,
Public Department,
Fort St.George, Chennai-9.
- 2.The Director General of Police,
Tamilnadu Police Head Quarters,
Mylaport, Chennai.
- 3.The Commissioner of Police,
Office of the Commissioner of Police,
Trichy City, Trichy District.
- 4.The District Collector,
Trichy City, Trichy District.
- 5.The Inspector of Police,
Palakarai Police Station,
Trichy District.
- 6.Subramani

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents 1 to 3 to conduct a fair and impartial investigation and to take criminal action against the sixth respondent and consequentially to pay a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) as compensation to the petitioner's minor son for the injuries suffered by him.

For Petitioner	: Mr.M.M.Iqbal
For R1 to R3	: Mr.K.Sansai Gandhi Government Advocate (Crl.Side)

ORDER

This petition has been filed to direct the respondents 1 to 3 to conduct a fair and impartial investigation and to take criminal action against the sixth respondent and consequently to pay a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) as compensation to the petitioner's minor son for the injuries suffered by him.

2.The case of the petitioner is that she is the mother of the victim, who was aged about 16 years at the time of occurrence. On 24.12.2016, at about 12.00 a.m, after attending bhajan in the Iyyappan Temple at Thennur, the son of the petitioner returned back to his house along with his friend namely, Rajasekar. On the way, at Keelapudhur, they wanted to drink a tea. When they



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were drinking tea in the Tea Stall namely, 'Naganathar Tea Stall', the sixth respondent police attached to the Ponmalai Police Station, Trichy came to the spot and started to attack the petitioner's son with lathi without any rhyme or reason. Without tolerating the same, the son of the petitioner started to run towards his house, which is situated few meter away from the above said Tea Stall. However, the sixth respondent started to chase the petitioner's son by his Motorcycle and hurled the lathi towards her son. Due to which, the son of the petitioner fell down on the ground near Sri Selva Mariamman Temple. On seeing the gathering of people, the sixth respondent left from the scene of occurrence. Thereafter, the said incident was informed to the petitioner and in order to lodge a complaint, the petitioner along with one Gopi Kannan (Late) and Senthil went to the Palakkarai Police Station. But, the police refused to take a complint on file. The son of the petitioner was admitted in the 'Venkateshvara Hospital' at Edatheru, Trichy. The Doctor, who was available in duty informed that the right leg of the son of the petitioner was broken into 3 pieces and it requires operation and even after operation, the right leg of the son of the petitioner will not come to normalcy. Since the matter involves police person, the said Doctor refused to issue medical memo. Hence, the son of the petitioner was shifted to the SRM Hospital at Samayapuram, Trichy and operation was also done. The son of the petitioner has taken treatment as inpatient for a period



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of 17 days (from 27.12.2016 to 12.01.2017). Therefore, the petitioner sent a representation to the Chief Minister Private Cell on 03.01.2017 in order to take action against the sixth respondent and there was no response. Hence, she sent a representation to the third respondent herein on 03.02.2017 and also sent a representation to the State Human Rights Commission on 07.02.2017. But, there was no response. Hence, the petitioner filed this petition with the above said prayer.

3.The learned counsel appearing for the petitioner submitted that since the police person is involved in this matter, the fifth respondent refused to take the complaint on file. Further, one Rajasekar, who is the friend of the son of the petitioner and also walked along with the son of the petitioner on the date of occurrence, is the eyewitness to the occurrence. But, he was not examined as a witness. A fair investigation was not done by the police. Without conducting proper investigation, the respondent police stated that no such occurrence was made out as alleged by the petitioner. They further stated that the son of the petitioner, in a drunken mood, fell down himself on the ground. Thereby, he sustained injuries. But, a reason for the injuries sustained by the son of the petitioner shows in a copy of the Accident Register of the Sri Venkateshwara Hospital is that fell down while police was chasing a group of people. From the



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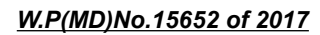
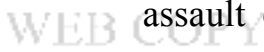
above evidence, it is made clear that due to the attack made by the sixth respondent, the son of the petitioner got fractures in his right thigh. Due to which, operation was done and huge amount was spent towards medical expenses. Even operation was done, the son of the petitioner got partial disability. Accordingly, he prayed to allow this petition.

4.Per contra, the learned Government Advocate (Crl.Side) appearing for the respondents 1 to 3 submitted that no such occurrence was happened as alleged by the petitioner. On 24.12.2016, when the sixth respondent and one Nagaraj (Home Guard-500) were on bandobust at Sangiliyandapuram Church area, they heard some sound near Kaliyamman Temple Arasamarathadi Bus Stop. Hence, switched on the siren and went to the spot. On hearing the siren sound, a group of persons have escaped from that place. They found one person namely, Mohanraj with injuries on his face and hands. After enquiry, they came to know that while the said Mohanraj was riding his bicycle, some boys were wandering on the road in a drunken mood and caused disturbances to the public. When the same was questioned by him, they abused him in filthy language. Thereby, the said Mohanraj slapped the boys. Thereafter, the above said boys come again along with other persons and entered into wordy quarrel with him and also assaulted him. On receipt of the request made by the above said



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Mohanraj that he would be attacked by those boys again, they took him to his house in a safety manner. Even they insisted him to give a complaint, he refused the same. Hence, they went off to his routine duty. Later on the next day i.e., on 25.12.2016, at about 02.00 p.m, the sixth respondent came to know that one boy has sustained injuries while escaping from the spot and also know that his mother has lodged a complaint against him. The Assistant Commissioner of Police, Golden Rock (Ponmalai) Range, Trichy has conducted enquiry in this regard with the sixth respondent, Home Guard Nagaraj, Auto Drivers, Tea shop owner and employee, Medical shop owner, Chicken shop owner and Mohanraj, who were present on the spot at the time of occurrence. Further enquiry was conducted by the Inspector of Police, Palakkarai Police Station, Trichy since the occurrence place is comes under the fifth respondent limit. After enquiry, the respondent police found that there is no such incident of assault on the son of the petitioner. Further, the son of the petitioner was admitted to the hospital by one Gopikannan (Late), who was an advocate. The above said Gopikannan (Late) could have made relevant entry in the hospital records, if the son of the petitioner was originally assaulted by police. But, no such entry was made in the records of the SRM Hospital, Chennai and it was only mentioned as self fall. From the above, it is made clear that the son of the petitioner fell down himself and sustained injuries and there was no incident of assault by the sixth



6. According to the learned counsel for the petitioner, due to the alleged assault on the son of the petitioner by the sixth respondent, the son of the petitioner got fractures in his right thigh and implantation surgery was made in his right thigh and huge amount was spent towards medical expenses. According to the learned Government Advocate (Crl.Side), no such assault was made by the sixth respondent and even in the Accident Register of SRM Hospital, Chennai, a reason for the cause of injuries was mentioned as self fall only.



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7. From the perusal of records, it is seen that even though the respondents examined number of witnesses, it failed to examine the eyewitness namely, Rajasekar, who is the friend of the son of the petitioner and also walked along with him on the date of occurrence. Even according to the respondents, the son of the petitioner, namely, Prasanth and his friend Rajasekar along with others, abused one Mohanraj and also attacked him, no complaint was received from the above said Mohanraj. In such circumstances, the sixth respondent or the Home Guard namely, Nagaraj, ought to have filed a complaint against the above said Prasanth and his friend Rajasekar. But, they have failed to file such a complaint and it creates suspicious. The contention made by the learned Government Advocate (Crl.Side) is that from the examination of witnesses and as per the Accident Register of SRM Hospital, Chennai, the cause of the injuries is self fall. But, in the copy of the Accident Register of Sri Venkateshwara Hospital, Palakkarai, Trichy, the cause of injuries is clearly mentioned as due to fell down while police was chasing a group of people. Apart from that, a perusal of Discharge Summary shows that due to assault only, the victim was sustained injuries.



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8. Considering the aforesaid facts and circumstances of the case, this Court comes to the conclusion that the son of the petitioner got injuries due to the attack made by the sixth respondent. It is seen that the son of the petitioner got fractures in his right thigh and implantation surgery was made in his right thigh and huge amount was spent towards medical expenses. Because of the above said fractures, he sustained partial disability. The occurrence is of the year 2016. However, even today, he is having pain in his right thigh. Hence, to meet the ends of justice, compensation is libale to be given to the son of the petitioner.

9. Accordingly, this Court directs the Respondents / Government to pay a sum of Rs.3,00,000/- (Rupees Three Lakhs Only) as compensation to the son of the petitioner, within a period of two months from the date of receipt of a copy of this order.

10. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index :Yes/No
Internet :Yes/No
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Public Department,
Fort St.George, Chennai-9.
- 2.The Director General of Police,
Tamilnadu Police Head Quarters,
Mylaport, Chennai.
- 3.The Commissioner of Police,
Office of the Commissioner of Police,
Trichy City, Trichy District.
- 4.The District Collector,
Trichy City, Trichy District.
- 5.The Inspector of Police,
Palakarai Police Station,
Trichy District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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A.A.NAKKIRAN, J.

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