



W.P(MD)No.26223 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.26223 of 2023

P.Muthulakshmi

... Petitioner

Vs.

- 1.The Principal Secretary to
Government of Tamil Nadu,
Home Department,
Secretariat, St.George Fort,
Chennai.
- 2.The Secretary,
Tamil Nadu Legal Aid Services Committee,
North Fort Road, ADR Building,
High Court Buildings,
Chennai.
- 3.The District Legal Aid Services Committee,
District Court Buildings,
Madurai.
- 4.The District Collector,
Madurai District.
- 5.The Inspector of Police,
Palamedu Police Station,
Madurai District.
(In Crime No.157 of 2010)



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6.P.Chinnathambi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 4 to grant Victim Compensation fund to the petitioner based on the proceedings in V.C.No.33/2018 on the file of the third respondent as per G.O.M.S.No.1591 Home (Pol.12) dated 24.09.2018 and notified scheme of the Tamil Nadu Victim Compensation Scheme for Women Victims / Survivors of Sexual Assault / Other Crime, 2018 dated 03.10.2018 by considering the representation of the petitioner dated 11.09.2023, within a time frame as fixed by this Court.

For Petitioner : Mr.R.Gowrishankar

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader
for R.1 & R.4

Mr.D.Sivaraman
Standing Counsel for R.2 & R.3

Mr.A.Albert James
Government Advocate (Criminal Side)
for R.5

ORDER

Heard the learned counsel appearing for the writ petitioner, the learned Additional Government Pleader appearing for the respondents 1



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and 4, the learned Standing Counsel appearing for the respondents 2 and 3 and the learned Government Advocate (Criminal Side) appearing for the fifth respondent. The sixth respondent is present in person.

2.The petitioner and the sixth respondent are siblings. The petitioner's mother Inbavalli was murdered on 07.08.2010. Culprit was none other than Pothuraja / father of the petitioner and husband of Inbavalli. In this regard, Crime No.157 of 2010 was registered on the file of Palamedu Police Station. The petitioner's father was tried and convicted by the Mahila Court in S.C.No.410 of 2010 on 21.04.2016. CrI.A(MD)No.405 of 2016 filed by the petitioner's father and it was dismissed by this Court on 24.01.2019. All that the petitioner and her brother seek is payment of compensation under the Victims compensation scheme. It is seen that the Government notified one such scheme in the year 2013 and another scheme in the year 2018. As per the 2013 scheme for the loss of life, the dependants were entitled to Rs.3 Lakhs. Under the 2018 scheme, the compensation payable is between Rs.5-10 Lakhs. The petitioner and the sixth respondent were minor children during the relevant time. They were not paid any compensation



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because the trial Court failed to make any recommendation in this regard.

That is why the present writ petition came to be filed.

3.That does not mean that the right of the petitioner and the sixth respondent to get compensation stands foreclosed forever. The writ Court can definitely fill up the lacuna.

4.I direct the petitioner and the sixth respondent to appear before the third respondent / The District Legal Aid Services Committee, District Court Building, Madurai on **14.03.2024 at 03.00 pm**. The said authority shall conduct enquiry and disburse compensation to the petitioner under Tamil Nadu Victim Compensation Scheme for Women Victims / Survivors of Sexual Assault / Other Crimes, 2018. In this case, the victim was the petitioner's mother. Therefore, the aforesaid scheme can be pressed into service.

5.The learned Standing Counsel appearing for the respondents 2 and 3 submitted that if this Court could take the cause of action as arising in 2016, when the Sessions Judge pronounced the verdict, the applicable



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scheme would be the 2013 scheme and not the 2018 scheme. I do not want take such a technical approach. The Sessions Judge failed to make a recommendation in favour of the petitioner and the sixth respondent. It is well settled that the mistake committed by the Court should not prejudice the party. In any event, an appeal is a continuation of the original proceedings. The appeal was disposed of only in the year 2019. By then, the 2018 scheme had come into force. I therefore hold that 2018 scheme is applicable to the present case. After holding an enquiry, quantification will be made and the quantified amount shall be disbursed equally between the petitioner and the sixth respondent. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

6.This writ petition is allowed on these terms. There shall be no order as to costs.

07.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Note: Issue order copy on 11.03.2024.

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To

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G.R.SWAMINATHAN, J.

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