



W.P.No.15436 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.15436 of 2023
and W.M.P.No.14974 of 2023

Santhakumari

... Petitioner

Vs.

1. The Chief Secretary,
Government of Tamil Nadu,
Fort St. George,
Chennai – 9.

2. The Secretary,
Public (Law & Order) Department,
Fort St. George, Chennai-9.

3. The Inspector of General of Police (Prisons),
Egmore, Chennai – 8.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to impugned order in Govt. Letter No.4078/Sa(Ma)O-E/2009-37 dated 03.03.2022 passed by the second respondent herein and quash the same as being illegal, arbitrary, unconstitutional and consequently direct the respondent Nos.1 to 3 to pay suitable enhanced compensation of Rs.50,00,000/- towards loss of petitioner's brother R.Dhanasekaran on illegal and unlawful encounter held on 09.07.2009.



WEB COPY



W.P.No.15436 of 2023

For Petitioner : Mr.N.Sudharsan

For Respondents

For R1 : Mr.P.Balathandayutham
Special Government Pleader

For R2 & R3 : Mr.A.Gopinath
Government Advocate (Crl. Side)

ORDER

This writ petition has been filed challenging the order dated 03.03.2022, passed by the second respondent thereby rejected the claim made by the petitioner on the demise of her brother.

2. The petitioner's brother Dhanasekaran was arrested and remanded to judicial custody pursuant to the registration of several cases. Subsequently, he was detained under the Goondas Act. When he was taken for appearance before the learned Judicial Magistrate, Tiruttani, for extension of remand, along with other accused persons, on 09.07.2009, in the police van one Head Constable Murugan, who sat in front of the van, shot him death. Therefore, the deceased's father submitted representation seeking compensation for the demise of his son. The same was not considered, and as such, the deceased's father had filed a writ petition before this Court in W.P.No.15009 of 2009 and this Court by an



W.P.No.15436 of 2023

WEB COPY

order dated 01.09.2021, directed the second respondent herein to consider the representation on merits and in accordance with law and pass orders. After enquiry, the representation submitted by the deceased's father was rejected by the second respondent by the impugned order dated 03.03.2022. Meanwhile, the deceased's father died. Now, in this present case, the petitioner, being the sister of the deceased, has challenged the order dated 03.03.2022, passed by the second respondent in this writ petition.

3. The learned counsel appearing for the petitioner submitted that while the petitioner's brother was under detention, he was shot dead. Therefore, the State has vicarious liability to compensate the deceased's family. In support of his contention, he relied upon the judgment of this Court passed in *W.P.No.13488 of 2025* dated *14.06.2023* in the case of *A.G.Subramaniam Vs. State of Tamilnadu & anr.*

4. On perusal of the judgment cited by the learned counsel appearing for the petitioner, it is revealed that this Court ordered compensation in the case where the prisoner, who was under illegal detention, died. But in the case at hand, the petitioner's brother was

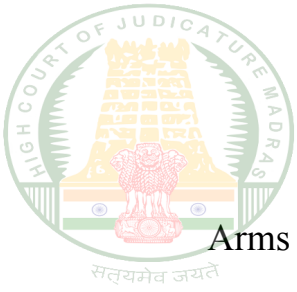


W.P.No.15436 of 2023

WEB COPY

arrested and remanded under judicial custody, pursuant to the registration of several cases against him. The deceased was facing several cases including three cases registered for the offence punishable under Section 302 of IPC. While the deceased was taken for appearance before the learned Judicial Magistrate, Tiruttani, for extension of remand, he was shot by one Murugan, Head Constable, inside the van, on 09.07.2009.

5. Later the investigation revealed that the said Murugan has previous enmity and he was charged for the offences under Sections 302 & 307 of IPC in Crime No.257 of 2009. After completion of investigation, they filed final report and the same has been taken cognizance in S.C.No.184 of 2011 on the file of the I Additional Session Court, Thiruvallur. After full fledged trial, the said Murugan was convicted and sentenced to undergo life and fine of Rs.10,000/- for the offence under Section 302 of IPC and to undergo rigorous imprisonment for the period of seven years and to pay a fine of Rs.5000/- in default to undergo simple imprisonment for six months for the offence under Section 307 of IPC and to undergo rigorous imprisonment for the period of seven years and to pay a fine of Rs.5000/- in default to undergo simple imprisonment for six months for the offence under Section 27 of the



W.P.No.15436 of 2023

Arms Act. Aggrieved by the same, the said Murugan preferred an appeal in CrI.A.No.298 of 2015 and the same was allowed and conviction and sentence imposed on him was set aside by this Court.

6. That apart, while the earlier writ petition was pending, the deceased's father was paid a sum of Rs.1,00,000/- as compensation by the State of Tamil Nadu as earlier as 18.12.2011. Without being satisfied with the said compensation, the deceased's father, after a period of seventeen years from the death of the deceased, had made request to give compensation, that too after the receipt of Rs.1,00,000/- as a compensation in the year 2011 itself. Further, the petitioner's brother was not shot dead by way of encounter or while he was illegally detained. Due to previous enmity, one Head Constable Murugan shot him dead for which, the respondents shall not hold any liability. Therefore, the claim made by the petitioner was rightly rejected by the second respondent and this Court finds no infirmity or illegality in the order passed by the second respondent.



W.P.No.15436 of 2023

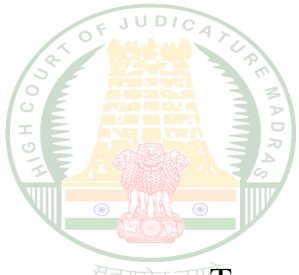
WEB COPY 7. Accordingly, the Writ Petition stands dismissed.

Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

25.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

rts



W.P.No.15436 of 2023

To
WEB COPY

1. The Chief Secretary,
Government of Tamil Nadu,
Fort St. George,
Chennai – 9.
2. The Secretary,
Public (Law & Order) Department,
Fort St. George, Chennai-9.
3. The Inspector of General of Police (Prisons),
Egmore, Chennai – 8.
4. The Public Prosecutor,
Madras High Court,
Chennai.



WEB COPY



W.P.No.15436 of 2023

G.K.ILANTHIRAIYAN. J.

rts

W.P.No.15436 of 2023
and W.M.P.No.14974 of 2023

25.02.2025