
(2011) 06 MAD CK 0453

In the Madras High Court

Case No : Criminal O.P. (MD) No. 4734 of 2010 and M.P. (MD) No. 1 of 2010

S. Krishnamurthy

APPELLANT

Vs

The State of Tamilnadu

RESPONDENT

Date of Decision : 30-06-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 302, 336(A), 376
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(2)

Citation : (2011) 06 MAD CK 0453

Hon'ble Judges : R.S. Ramanathan, J

Bench : Single Bench

Advocate : Issac Mohan Lal, for S. Radhakrishnan, for the Appellant; L. Murugan, Government Advocate for R1 and S. Rozario Sundar Raj, Special Public Prosecutor for CBI for R2 and R3, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Ramanathan, J.—The Petitioner, who was subjected to inhuman treatment at the hands of the police filed this petition seeking for direction, directing the 2nd Respondent to register a case against the police officials for violation of human rights and appoint an officer for supervising the investigation and for payment of compensation.

2. The facts of the case may be summarized as follows:

A complaint was given by Sevugan, father of Sujatha about the missing of his daughter viz., Sujatha and a case was registered in Crime No. 61 of 1997 on the file of the SP Pattinam Police Station, Ramanathapuram District, for the offence u/s 336(A) Indian Penal Code, 1860. In the complaint, he has made specific allegations against one Karmegam and stated that his daughter Sujatha was missing from 06.04.1997 and the complaint was given on 26.04.1997, No. action was taken on the complaint and therefore, he filed HCP No. 1132 of 1997 before this Court and thereafter only, the police officials swelling into action and

arrested Karmegam. According to the police officials, Karmegam alleged to have given confession about the involvement of the Petitioner in the kidnapping of Sujatha and therefore, as per the direction of the Superintendent of Police, Ramanathapuram District, by his memo, dated 28.01.1998, Madavan, Inspector of Police was directed to take charge of the investigation and he was assisted by Baskaran, another Inspector of Police. On the basis of the alleged confession of Karmegam, the Petitioner was arrested and he was arrayed as A-2 and on the basis of his alleged confession, the case was altered into 302, 376, 336-A and 201 Indian Penal Code, 1860 and after conducting faulty investigation, the case was charge sheeted against the Petitioner and another person Palani along with Karmegam for the aforesaid offences and also for offences u/s 3(2)(v) of SC/ST (Prevention of Atrocities) Act. The case was also committed to III Additional Sessions Court, in SC No. 117 of 2002. At that time, the person who was alleged to have been murdered by the Petitioner appeared before the III Additional Sessions Court and gave a statement that she was kidnapped by Karmegam and thereafter, she escaped from Karmegam and she was living in various places and she did not make any allegation against the Petitioner and another person Palani. Thereafter, the Petitioner and another person Palani filed CrI.O.P. No. 8543 of 2006 before this Court to declare them as innocent persons and they were falsely implicated in SC No. 117 of 2002 and also directing the Respondents 1 and 2 in that petition, to register F.I.R., with regard to the illegal confinement, torture, violation of human rights and malicious prosecution meted out by them and for other reliefs. This Court after being satisfied with the statement of the victim girl, Sujatha and after allowing her to undergo DNA test along with her father and on the basis of the test, came to the conclusion that the girl appeared was Sujatha, who was alleged to have been murdered by the Petitioner and another person Palani and having regard to the statement of Sujatha and on being satisfied about the inhuman treatment received by the Petitioner from the hands of the police during his arrest and investigation, declared that the Petitioner and another person Palani are innocent persons and they cannot be made as accused in SC No. 117 of 2002 and directed the State of Tamilnadu, represented by Secretary, Home Department and DGP of Police, Tamilnadu Police Service viz., the Respondents 1 and 2 in that petition, to register a complaint in respect of illegal confinement, torture, violation of human rights and also malicious prosecution in respect of the Petitioner and also directed compensation of Rs. 1 lakh to each of the Petitioner in that case, by order, dated 20.11.2007. As No. action was taken by the Respondents, the present petition is filed by the Petitioner seeking the reliefs stated above.

3. It is submitted by the learned Counsel appearing for the Petitioner, Mr. Issac Mohanlal, that even after this Court has given a verdict in CrI.O.P. No. 8543 of 2006 that the police used 3rd degree method tortured the Petitioner when he was in police custody and the Petitioner sustained injuries and received inhuman treatment at the hands of the police and on being satisfied with the inhuman treatment given to the Petitioner by the police, directed the State Government

and DGP of Police, to initiate action against the officials for having committed human rights violation and after ordering compensation, the Respondents have not taken any action either to pay the amount or to take further action against the police officials and therefore, this petition has been filed.

4. The Respondents 2 and 3 filed a counter stating as per the direction of this Court, the Special Crime Branch Chennai, CBI, has registered PE 1(S)/08, on 24.06.2008 and conducted an enquiry into the violation of human rights of the Petitioner and as per the finding of the enquiry, the police officials violated the human rights of the Petitioner and his brother and friends and submitted a report to the Government and recommended departmental action taken against the police officials concerned.

5. It is further stated that as per the recommendation of the 2nd and 3rd Respondents, departmental proceedings were recommended against (1)P.Kannappan, IPS, formerly Superintendent of Police, Ramanathapuram District, (2)Madhavan formerly Inspector of Police, Thondi Police Station, (3)Baskaran, Inspector of Police, (4)Dasaratharajan, Sub Inspector of Police, SP Pattinam Police Station, (5)Rajamani, Head Constable SP Pattinam Police Station and (6)Samidurai, Head Constable, Striking Force, Ramanathapuram District.

6. The 1st Respondent filed a counter stating that as per the order passed in CrI.O.P. No. 8543 of 2006, the Government has sanctioned the compensation amount, vide, G.O.(2D) No. 593, Home (Pol.XV) Department, dated 27.12.2010 and the amount was also paid to the Petitioner. It is further stated that as per report of the 2nd and 3rd Respondents, disciplinary proceedings were initiated against the police officials and based on the findings of the enquiry officer, further action has been dropped against the police official, Kannappan, IPS, formerly Superintendent of Police and Inspector of other police personnels and the charge memo served on them on 24.04.2010.

7. The learned Government Advocate (Criminal side) appearing for the first Respondent submitted that as per the direction of this Court made in CrI.O.P. No. 8543 of 2006, action has been taken in paying the compensation and departmental proceedings were also initiated on the basis of the report of the CBI and therefore, the petition may be dismissed.

8. The learned Special Public Prosecutor appearing for CBI, Mr. S.Rozario Sundar Raj, submitted that the Respondents 2 and 3 as per the direction of this Court conducted enquiry and submitted a detailed report to the first Respondent for taking further action and as per the counter filed by the first Respondent, they have taken action and the Respondents 2 and 3 have done their part as directed by this Court.

9. Heard both sides.

10. It is unfortunate that despite specific order being passed in CrI.O.P. No. 8343 of 2006, the first Respondent has not taken any action as per the direction given

by this Court in that order.

11. I have gone through the report of the CBI as submitted to the first Respondent and in that report, the CBI has enclosed the statements obtained from various persons, including the Petitioner wherein the Petitioner and witnesses have given graphic details about the inhuman treatment meted out to the Petitioner and the torture and harassment of the police against the Petitioner and other suspected persons.

12. As per the order of this Court made Crl.O.P. No. 8543 of 2006, the CBI was directed to conduct investigation with regard to human rights violation of the Petitioner and having found in its report that the police officials violated human rights of the Petitioner, the CBI instead of recommending action against the police officials for having committed the violation of human rights, only recommended departmental action against the police officials, which according to me, is beyond the power of CBI and also beyond the scope of enquiry entrusted by this Court to CBI.

13. Further, the first Respondent, who was directed to take action against the officials for having violated the human rights of the Petitioner on the basis of the report of the CBI ignored the human rights violation aspect and only proceeded departmentally against the police officials as if CBI in its report recommended departmental action. According to me, the Respondents 2 and 3 committed a serious error in recommending departmental action and they have acted beyond the work entrusted on them. They ought to have stopped with their findings of human rights violation and they have No. business to recommend departmental action.

14. Further, the act of the first Respondent in taking departmental action against the police officials, without taking action for having violated the human rights of the Petitioner on the basis of the CBI report is also highly contemptable and the first Respondent can be said to have committed contempt of court in not taking action against the officials concerned for having violated the human rights of the Petitioner as ordered by this Court in Crl.O.P. No. 8543 of 2006.

15. According to me and as per the counter of CBI, specific finding has been given in the report of CBI that there were human rights violation committed by the police officials against the Petitioner and as per the order of this Court, the first Respondent ought to have taken action by registering a case for violation of human rights of the Petitioner against the officials concerned.

16. Hence, this petition is allowed and the first Respondent is directed to take immediate action against the police officials for having violated human rights of the Petitioner on the basis of the report of the CBI, submitted to the first Respondent, within a period of four weeks from today and shall report the same to this Court. As the compensation was already paid to the Petitioner, there is No. need to grant any further order. Consequently, connected Miscellaneous Petition is closed.