
(2013) 08 MAD CK 0099
In the Madras High Court
Case No : W.A. No. 3689 of 2002

Samuthravel and Natarajan	Vs	APPELLANT
M. Guruvammal and Others		RESPONDENT

Date of Decision : 12-08-2013

Acts Referred:

Citation : (2013) 08 MAD CK 0099

Hon'ble Judges : T.S. Sivagnanam, J;R. Banumathi, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

R. Banumathi, J.—Being aggrieved by the order in W.P. No. 12814 of 2001 (03.10.2001) directing the State to recover the compensation amount of Rs. 2,50,000/- awarded for custodial death of one Muthusamy to be recovered from the then Sub-Inspector of Police and Constables attached with Seithur Police Station in equal moieties from their salary, the police constables have filed W.A. No. 3689 of 2002 and the Sub-Inspector of Police has filed W.A. No. SR101292 of 2010. Since both the appeals arise out of the same order, both the W.A. No. 3689 of 2002 and W.A. No. SR101292 of 2010 were heard together and disposed of by this common judgment. For convenience, the parties are referred as per their array in W.A. No. 3689 of 2002. On 23.12.1989, one Muthusamy, the husband of 1st Respondent, father of Respondents 2 and 3 and son of Respondents 4 and 5 was picked up by the 8th Respondent-Ravichandran (who was then Sub-Inspector of Police) and Appellants (who were then Constables of Seithur Police Station) under the pretext of questioning him in connection with the investigation into an offence.

Muthusamy was tortured by 8th Respondent-S.I. of Police and Appellants and was confined in the police station for more than 24 hours without

even producing him before the Judicial Magistrate concerned. On 2.1.1990 at about 7.00 a.m., the 1st Respondent was informed that her

husband's body was found hanging on a tree in a nearby forest. On enquiry the 1st Respondent came to know that her husband was beaten to

death in the police station on 30.12.1989 itself and the body was hanged on the tree by the police. Hence, 1st Respondent and her children and in-

laws of deceased Muthusamy approached the Court by filing Writ Petition, seeking for a direction to the State to pay compensation of Rs.

2,50,000/-.

2. Upon consideration, learned single Judge held that at the time of occurrence deceased Muthusamy was aged 27 years and was not a weak

minded person and therefore could not committed suicide. After referring to the post-mortem certificate and the injuries found on the body and that

Muthusamy could not have committed suicide, the learned single Judge allowed the Writ Petition with a direction to the 6th Respondent-State to

pay Rs. 2,50,000/- with interest at the rate of 6% per annum from 01.01.1990 and also awarded cost of Rs. 6,000/- to the Respondents 1 to 5.

Learned single Judge directed the 6th Respondent-State to recover the amount of compensation of Rs. 2,50,000/- in equal moieties from the

Appellants and the 8th Respondent.

3. Challenging the award of compensation of Rs. 2,50,000/-, the 6th Respondent-State preferred appeal in W.A. No. 557 of 2006. Pointing out

that based on the materials, the learned single Judge arrived at a conclusion that Muthusamy died of torture and harassment at the hands of

Appellants and 8th Respondent, by the Judgment dated 10.7.2006, the First Bench of this Court dismissed the writ appeal filed by the State.

4. Aggrieved by the liberty given to the 6th Respondent-State to recover the compensation amount in equal moieties from the Appellants and 8th

Respondent, the Appellants who were then police constables have preferred W.A. No. 3689 of 2002. 8th Respondent, who was then Sub-

Inspector of Police of Seithur Police Station has preferred W.A. No. SR101292 of 2010.

5. We have heard Mr. A. Mohamed Ismail, learned counsel appearing for the

Appellants and the 8th Respondent. We have also heard Mr. P.S.

Shivashanmuga Sundaram, learned Additional Government Pleader for State.

6. Learned counsel for Appellants submitted that when the authorities have uniformly held that the death of deceased Muthusamy is only suicide

and the finding of the learned single Judge that deceased was tortured in police custody and killed by the Appellants and 8th Respondent is without

any basis and the findings are based on surmises and conjunctures. It was further submitted that in any event, the learned single Judge was not right

in fastening the tortious liability upon the Appellants and the 8th Respondent.

7. Insofar as award of compensation of Rs. 2,50,000/-, the First Bench in its Judgment dated 10.7.2006 confirmed the award of compensation of

Rs. 2,50,000/- and thus it has become final and it is not necessary for us to elaborate upon the same further.

8. The point that falls for consideration in these appeals is whether the direction of the single Judge directing the State to recover the compensation

amount of Rs. 2,50,000/- from the Appellants and 8th Respondent is sustainable. As per the post-mortem certificate, as many as 15 injuries are

found on the body of the deceased and even according to the report of the Revenue Divisional Officer-cum-Executive Magistrate, all these injuries

have been caused by lathis and besides by poking sharp edged needle near the genital part of the deceased while he was in custody. Learned

single Judge extracted the injuries found on the post-mortem certificate and held that the injuries caused by lathis and needles poked on the genital

organs. Learned Judge further held that deceased was taken to police custody and kept in illegal custody for number of days for certain alleged

offences and tortured while in custody.

9. Insofar as the conclusion arrived at by the Executive Magistrate during inquest and the medical opinion that death was due to suicide by hanging,

the learned Judge observed that deceased was not a weak minded person to commit suicide and the State and Appellants and 8th Respondent

had no explanation for the injuries and directed the State to pay compensation of Rs. 2,50,000/- to the Respondents 1 to 5. Learned single Judge

elaborately considered the evidence and materials placed and arrived at the conclusion that death was due to torture by the Appellants and 8th

Respondent and since the Appellants and 8th Respondent were incharge, the

learned Judge has rightly ordered that the compensation of Rs.

2,50,000/- be recovered from Appellants and 8th Respondent in equal moieties. We do not find any reason to interfere with the findings of the

learned single Judge and the appeals are liable to be dismissed. In the result, W.A. No. 3689 of 2002 and W.A. No. SR101292 of 2010 are

dismissed. Consequently, connected Miscellaneous Petition if any is closed. No costs.