

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :27.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD)No. 9209 of 2017

K.Shanthi ... Petitioner

Vs.

1.The District Collector,
Dindigul District, Dindigul.

2.The Superintendent of Police,
Dindigul, Dindigul District.

3.The Deputy Superintendent of Police,
Sub-Division, Palani,
Dindigul District.

4.State through the Inspector of Police,
Chathirappatty Police Station,
Dindigul District.
(Crime No.55 of 2015) ... Respondents

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondents 1 to 4 to pay the relief amount to the petitioner as per the Rule 12 (4) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Rules, 2016, within a stipulated time that may be fixed by this Court.

For Petitioner

: Mr.R.Karunanidhi

For Respondents

: Mr.S.Chandrasekaran
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking for a direction to the respondents to pay compensation to the petitioner as per Rule 12(4) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Rules, 2016. The petitioner is a victim and her husband is the *de facto* complainant. Based on his complaint, an F.I.R was registered in Crime No.55 of 2015, by the respondent Police for the offences under Sections 294(b), 324 and 506 (ii) of the Indian Penal Code r/w 3 (1) (s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 2014. On completion of the investigation, the third respondent has filed a final report before the learned Judicial Magistrate, Ottanchithram and the same is pending in P.R.C.No.07 of 2015. It is represented that the case has already been committed to the Special Court, dealing with the Scheduled Caste and Scheduled Tribes, Dindigul in Spl.S.C.No.211 of 2018. In the mean time, the petitioner made a representation to the District Collector to grant her compensation of a sum of Rs.1,50,000/- for which, she is entitled under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Rules, 2016. Since the representation was not considered, the present Criminal Original Petition has been filed before this Court seeking for appropriate directions.

2. Today, when the matter is taken up for hearing, the learned Additional Public Prosecutor appearing for the respondents, on instructions, submitted that on an independent enquiry conducted by the District Collector, Dindigul District, it was found that even though the victim by birth belongs to the Scheduled Community, she has followed Christianity and therefore, she is not entitled for the victim compensation and her husband is coming under the category of Backward Class.

3. The learned counsel appearing for the petitioner submitted that the Police have taken one stand in this case and the District Collector has taken a completely different stand and that itself shows that the subsequent finding of the District Collector is only with a view to deprive payment of compensation to the petitioner.

4. The learned counsel appearing for the petitioner brought to the notice of this Court, the judgment of the Hon'ble Supreme Court in the case of ***Sunita Singh Vs. State of Uttar Pradesh and others*** reported in ***(2018) 2 SCC 493*** and the order of this Court in the case of ***P.Vijayabharathy Vs. The District Collector cum District Magistrate and others*** in ***Crl.O.P.(MD).No.2 of 2018***, dated 29.08.2018.

5. This Court has carefully considered the submissions on either side and the materials available on record.

6. Based on the investigation conducted by the third respondent viz., the Deputy Superintendent of Police, Palani, he has already filed a final report for the offences under Sections 294(b), 324 and 506 (ii) of the Indian Penal Code r/w 3 (1) (s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act 2014. The case is now pending before the Special Court in Spl.S.C.No.211 of 2018. While so, it is very unfortunate that a stand has been taken by the District Collector to the effect that the husband of the petitioner, who has converted himself to Christianity, is coming under the category of Backward Class and therefore, the petitioner will also come under the Backward Class Community and she will not be entitled for the compensation. If such stand is taken, it is not known as to how the respondent Police will be able to sustain the final report that has already been filed for the offence under various Sections of Scheduled Castes and Scheduled Tribes Act. It is, therefore, clear that such contradictory stand has been taken only to deprive the petitioner compensation for which, she is entitled under the above said Rules.

7. It will be relevant to rely upon the judgment cited by the learned counsel appearing for the petitioner.

8. The Hon'ble Supreme Court in the case of ***Sunita Singh Vs. State of Uttar Pradesh and others*** referred supra. The relevant portion of the judgment is as follows:-

“There cannot be dispute that the caste is determined by birth and the caste cannot be changed by marriage with a person of Scheduled Caste. Undoubtedly, the appellant was born in “Agarwal” family, which falls in general category and not in Scheduled Caste. Merely because her husband is belonging to a Scheduled Caste category, the appellant should not have been issued with a caste certificate showing her caste as Scheduled Caste. In that regard, the orders of the authorities as well as the judgment of the High Court cannot be faulted.”

9. From the above judgment, it is seen that the caste of a person has to be determined only based on the birth and it cannot be changed by virtue of marriage. The real test is that one should have suffered dis-abilities socially, economically and educationally. There is absolutely no material to show that the petitioner has also converted herself into a Christian. Even if the husband of the petitioner is following Christianity, that does not automatically make the petitioner a Christian and her original status, wherein, she belongs to the Scheduled Caste Community, will continue. The Hon'ble Supreme Court has repeatedly held that the deprivations, indignities and humiliates faced by the member of the

Community is the real test and mere marriage or conversion can never be put against a person, who was actually born in the Scheduled Caste Community. The law on this issue is well settled. Another judgment that has been cited by the learned Counsel appearing for the petitioner is in the case of ***P.Vijayabharathi Vs. The District Collector cum District Magistrate*** referred supra. The relevant portion of the order is extracted hereinunder:-

“6.The Legislature thought it fit to bring in certain remedial measures in order to safeguard the victims, who suffered due to the backwardness and due to the fact that they belong to the Scheduled Caste and Scheduled Tribe Community. A beneficial piece of legislation must be interpreted in a purposive manner which would effectuate the object of the welfare legislation and the Court must always lean in favour of applying the beneficial measures that have been given to victims, even in cases where the incident had happened before 2016. Therefore, this Court is not in agreement with the submissions made by the learned Government Advocate (Crl. side) to the effect that this rule cannot be taken advantage by the petitioner and the petitioner is not entitled for claim victim compensation in accordance with the rules, which came into effect only in the year 2016.”

10. This Court has held that the legislature has brought in certain remedial measures in order to safeguard the victims belonging to

the Scheduled Caste and Scheduled Tribe Community and this provision must be interpreted in a purposive manner. In this case, the petitioner has been recognised as a person belonging to the Scheduled Caste Community in the final report and the same has also been committed to the Special Court, dealing with the Scheduled Caste and Scheduled Tribes Act. It is really unfortunate that the District Collector took a complete contradictory stand and deprived the petitioner from claiming compensation.

11. In view of the above, this Court has no hesitation to order the payment of compensation to the petitioner. The first respondent is directed to pay the compensation to the petitioner of a sum of Rs.1,50,000/- (75% total relief of Rs.2,00,000/-) in accordance with Rule 12(4) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 2016. This compensation shall be paid within a period of six weeks from the date of receipt of a copy of this order.

12. This Criminal Original Petition is allowed, accordingly.

WEB COPY 27.09.2019

Index : Yes / No
Internet : Yes / No
tsg

Crl.O.P.(MD)No. 9209 of 2017

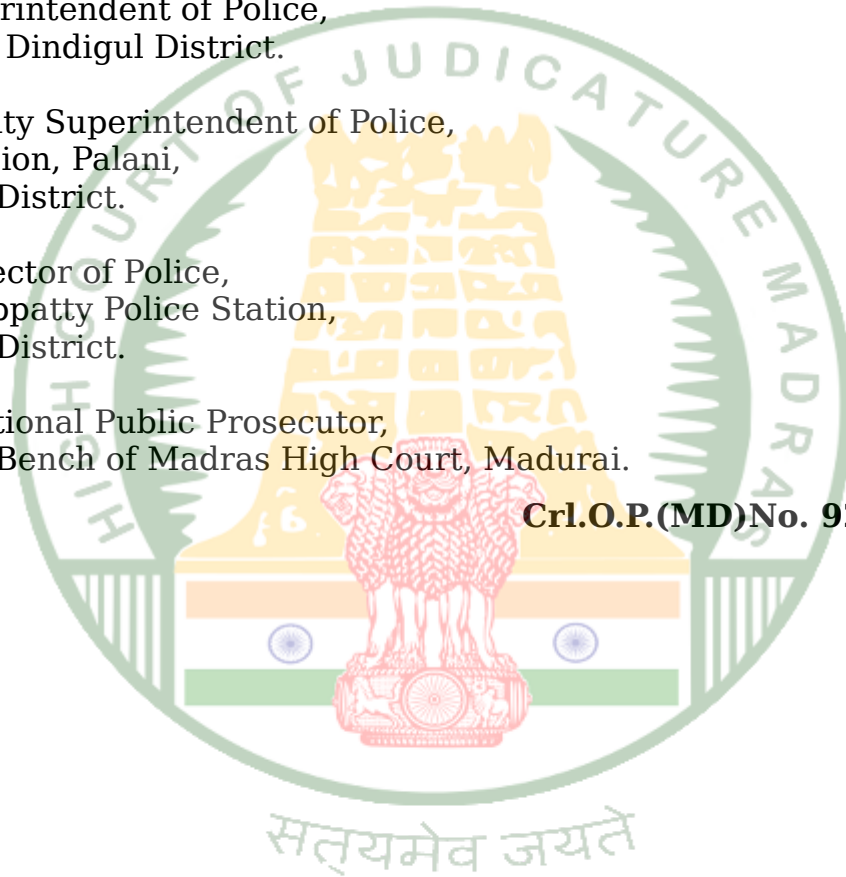
N.ANAND VENKATESH,J.

tsg

To

- 1.The District Collector,
Dindigul District, Dindigul.
- 2.The Superintendent of Police,
Dindigul, Dindigul District.
- 3.The Deputy Superintendent of Police,
Sub-Division, Palani,
Dindigul District.
- 4.The Inspector of Police,
Chathirappatty Police Station,
Dindigul District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P.(MD)No. 9209 of 2017



WEB COPY

27.09.2019