

Police Officers Involved In Thoothukudi Firing Incident Should Be Prosecuted For Murder, Have Shown No Remorse: Madras HC Observes Orally

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While hearing a plea seeking to reopen a case related to police firing during the Thoothukudi Sterlite protests in which 13 people lost their lives, the Madras High Court today orally remarked that the police officers responsible for the firing should be prosecuted for the offence of murder.



Division Bench of Justice SS Sundar and Justice N Senthilkumar lamented that even after all these years, the police officials have not shown any remorse

“Grave injustice is being done. This is a serious matter. Is this how you want to treat the common public? You (officers) all should be prosecuted for murder. None of you have felt sorry yet,” the court orally remarked.

The court was hearing a plea filed by Executive Director of People's Watch, Henry Tiphagne, seeking directions to the NHRC to reopen the case of killing unarmed protestors. Tiphagne had challenged the NHRC's closure of the suo moto investigation into the matter.

The court made the observations when Senior Advocate Somasundaram appearing for the Deputy Superintendent of Police, Thoothukudi interfered with the submission of the petitioner and argued that the petition was not maintainable as the National Human Rights Commission could not re-open the case.

Tiphagne was appraising the court on the history of the case and that the issue has been pending before the court since 2021. Tiphagne submitted that while he had filed a petition way back in 2021, the respondents were coming slowly in batches. To this, Senior Advocate Somasundaram continued to argue that the petition was not maintainable. This infuriated the court and prompted the judges to remark that all police officers responsible for the firing should be first prosecuted for the offence of murder.

In January 2018, when the Sterlite Copper Plant initiated steps to double the capacity of the existing copper smelting plant, the local community members, fearing further deterioration of the environment and their health that such an expansion posed, started protesting against the company in the Thoothukudi District.

On May 22 2018, on the 100th day of the protest, when they marched towards the Thoothukudi Collectorate seeking permanent shutdown of the plant, the police opened fire killing 13 persons in total and injuring hundreds.

The NHRC had also taken up a suo motu investigation into the matter. However, considering the NHRC's actions superficial, an advocate approached the Delhi High Court which then ordered the NHRC to conduct an independent inquiry. The Tamil Nadu Government appointed former Madras High Court judge Aruna Jagadeesan to probe into the violence. The Aruna Jagadeesan Commission reported that the police action was unprovoked and indiscriminate. Meanwhile, the NHRC had closed the matter.

Challenging the closure, Tiphagne argued that NHRC's order closing the suo motu case was ill-advised and did not mention any of the inquiry reports of the findings and merely referred to the compensation paid to the victims. The court had previously criticized the manner in which the case was closed and remarked that

NHRC's duty did not end by merely paying compensation. Following the court's direction, the officers named in the commission report were also impleaded into the case.

When the matter was taken up on Monday, Senior Advocate Somasundaram, argued that as per Section 36(1) of the Protection of Human Rights Act 1993, the commission could not inquire into any matter which is pending before a State Commission or any other commission duly constituted under any law. Arguing that the State Commission had already considered the issue, he contended that the petitioner could not seek relief of reopening the case by the NHRC.

To this, Tiphagne submitted that as per Regulation 32(b) of the National Human Rights Commission (Procedure) Amendment Regulations 1997, if any application seeking modification/review of the order or proceedings passed by the Commission is received, the same shall as far as possible be placed before the same bench which made the order along with the case file and a brief note on the points made out in such application and the same shall be disposed of by such order as may be deemed proper. He thus argued that the NHRC could look into its own orders.

At this point, Justice Sundar clarified that the Regulation talked about a review while the relief sought by petitioner was one essentially challenging the order itself. The court asked the petitioner to respond to the particular objection raised by the respondent and adjourned the case to July 15, 2024.

<https://www.livelaw.in/high-court/madras-high-court/madras-high-court-thoothukudi-police-firing-police-prosecuted-for-murder-261959>