

Despite Tamil Nadu Being A Better Law Enforcing State, There's An Increasing Trend Of Police Encounters: Madras High Court

[Upasana Sajeev](#) | 27 Sept 2024 8:50 PM

The Madras High Court today lamented the rising trend of police encounters in the state of Tamil Nadu. The court observed that despite being one of the better law enforcement State, there was an increase in incidents of criminals allegedly attempting to attack police officials and ending up being shot or injured.

“It is with anguish, that this Court notices despite the State of Tamil Nadu being one of the better law-enforcing states and the Tamil Nadu Police being one of the better law-enforcing agencies, a disturbing trend of (i) increase in dangerous criminals trying to attack police party and then they are shot dead or injured; and (ii) increase in a strange way of accused trying to escape and falling and fracturing their hands, that is happening,” the court observed.

Justice Bharatha Chakravarthy noted that oftentimes, the family, who might have been affected by the criminals would applaud the encounter killings without realizing that the same is fundamentally wrong and retrograde thinking.

“The immediate society affected by the particular offense committed by the accused starts applauding such killings without realizing that the same is a fundamental wrong and retrograde thinking. The factual backgrounds that are mentioned in these instances are stereotypical. The same has to be taken seriously note of and thoroughly investigated,” the court added.

The court noted that the issue of appreciation for encounter killings had to be taken seriously as the same points to a lack of faith in the law enforcing agencies in the rule of law, constitutional rights and protection, and the criminal justice system. The court further noted that such an attitude reminisces the colonial past of the police and is an affront to democracy.

The court added that people's belief that instant death is an appropriate punishment that would have a deterrent effect is not true and was only a myth. The court emphasized that the means should be as legal as the end.

The court was hearing a petition filed by the mother of a man who was allegedly killed in a police encounter. The mother sought for registration of an FIR against the police officers involved in the alleged encounter and to entrust the investigation to an independent investigation agency like the CBI.

The mother had argued that she along with other family members was assaulted and tortured by the police personnel on February 2, 2010, seeking the whereabouts of her son. Following this, her son surrendered before the police and was later killed in an alleged encounter. It was submitted that the State Human Rights Commission had conducted a detailed inquiry after which it had given a categorical finding that the police's version of opening fire in self-defense was improper and the incident was a fake encounter. The court was informed that the SHRC had even ordered compensation which was sanctioned and paid by the Government.

The police, on the other hand, argued that when the police were conducting a usual vehicle checkup, the petitioner's son, who was a history sheeter came through that route along with another history-sheeter and when the police tried to catch hold of the pair, they attacked the officers. It was submitted that the police had started the fire in self-defense.

The State also argued that the SHRC's findings could not be taken into account as the same had been stayed by the High Court. It was further submitted that an independent FIR was registered for the offence which was investigated by the CBCID and the CBCID had concluded that the fire was opened in self-defense since the two deceased had attacked the police officers.

The court noted that in the present case, there were two complaints- one by the officer involved in the encounter and another by the petitioner. The court noted that the complaint filed by the mother was not a subsequent one but a counter case and when both versions were before the police, the Investigating officer ought to have made a due request to the Judicial Magistrate to conduct an inquiry. The court noted that in the present case, the officer had instead concluded that the police officer's complaint was correct and proceeded with the same and rejected the complaint of the mother.

The court also noted that the investigation was initially conducted by the Inspector of Police and later, when the investigation was transferred to the CBCID, the investigation was again carried out by an officer in the rank of the Inspector of Police. The court noted that both the officers were lower in rank than that of the officer against whom the investigation was done, as the officer was Assistant Commissioner of Police at the time.

The court thus concluded that there were inherent and basic flaws in the whole investigation and a fresh investigation had to be conducted by an officer in the CBCID above the rank of the accused officer. Though the state argued that there was a lapse of 14 years and it would be appropriate for the mother to continue the protest petition, the court noted that there was no delay on the part of the mother as she had tried to register the complaint on the same day of the encounter. The court also there was a purpose for conducting a thorough investigation into these matters since it was necessary to re-establish the faith in the rule of law and to ensure that such extra-constitutional killings are not resorted to.

The court thus directed the DGP to depute a higher-ranking official in the CBCID to investigate the matter and quashed the final report already filed. The court directed the investigating officer to register the mother's complaint and take up both the cases together and carry out the fresh investigation as expeditiously as possible. The court also asked the Judicial Magistrate to conduct an inquiry as per Section 176(1-A) of the CrPC.

Counsel for the Petitioner: Mr. Henri Tiphagne for M/s.D.Geetha

Counsel for the Respondents: Mr.Veera Kathiravan, Additional Advocate General, assisted by Mr.R.M.Anbunithi, Additional Public Prosecutor

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Case Title: A. Guruvammal v The Commissioner of Police

Case No: CRL OP(MD). No.1896 of 2010

<https://www.livelaw.in/high-court/madras-high-court/madras-high-court-increated-police-encounter-in-state-270959>