



W.P.(MD).No.1650 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.1650 of 2024

S.Vijayalakshmi

... Petitioner

Vs

1. The State Police Complaints Authority / Additional,
Chief Secretary to Government,
Home Department, Secretariat,
Chennai - 600 009.
2. The District Collector,
Madurai District Collectorate,
Madurai - 625 020.
3. The Commissioner of Police,
Madurai City,
Alagarkoil Road, Madurai - 625 002.
4. Sankar
5. Sorna Rajan
6. Kathiresan

... Respondents



W.P.(MD).No.1650 of 2024

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent to conduct an enquiry and take appropriate / disciplinary action against the 4th to 6th respondents, on the petitioner's Complaint, dated 24.06.2023 and pass appropriate orders against the 4th to 6th respondents, within a time limit to be fixed by this Court.

For Petitioner : Mr. G.Rajaguru

For Respondents : Mr.J.John Rajadurai (R1 to R3)
Government Advocate

Mr.K.Samidurai (R4)
Mr.R.Shankar Ganesh (R5)
Mr.Thirupathy Chellasamy (R6)

ORDER

The present writ petition has been filed directing the 2nd respondent to conduct an enquiry and take appropriate / disciplinary action against the respondents 4 to 6, on the petitioner's Complaint, dated 24.06.2023 and pass appropriate orders, within the time limit fixed by this Court.

2.(i).The petitioner's husband, Saravanan, is a physically challenged person and they have a five year old son. The petitioner is a law student. The petitioner's husband is doing tyre sales business. The petitioner's husband's brother, namely Madhu Pandian, is also doing tire sales business, just



W.P.(MD).No.1650 of 2024

opposite to the shop of the petitioner's husband. The petitioner's husband, Saravanan, his brother Madhu Pandian and mother Rajalakshmi suffer strained relationship due to the family property dispute with respect to the buildings bearing D.No.31/1 of Workshop road. One Ramesh, son of Surulivel, is running a business in the name and style of Shakti Traders in the second floor of the aforesaid building for the past 20 years. Due to the property dispute prevailing between the petitioner's husband, Saravanan, his brother Madhu Pandian and Rajalakshmi, several civil and criminal cases are pending before various Courts between them.

(ii).While so, on 18.01.2023 at about 10 hours, without any reason, the said Ramesh trespassed into the petitioner's husband's tyre shop and attacked the petitioner and her husband, Saravanan, causing blood injury and looted the tyres and money. Hence, the petitioner made complaint to Police Control Room 100 and the fourth respondent came to the place of occurrence and took the petitioner, her husband, Saravanan, and the said Ramesh to Thilagar Thidal (L & O) Police Station. It is further alleged by the petitioner that the petitioner and her husband were kept under illegal custody by the 4th to 6th respondents from 10.30 A.M. 18.01.2023 till evening, at Thilagar Thidal (L&O) Police Station. Though the petitioner and her husband had bleeding



W.P.(MD).No.1650 of 2024

injury, which required immediate medical attention, they were not taken to the Hospital for treatment or First Aid.

(iii).The 4th respondent knowing that the petitioner is a Law Student, had commented upon her education and threatened to spoil her education by putting her into prison. The 4th respondent refused to receive the Complaint given by the petitioner with true facts, whereas compelled to give complaint as dictated by him. Further, with a malafide motive to prevent them from getting legal assistance from an Advocate and to threaten the Petitioner's Advocate that he would also face criminal action if he assisted the petitioner, the 4th respondent got a Complaint from Ramesh implicating the name of the Petitioner's Advocate, which is in violation of law. After registration of FIR, the name of the Advocate was removed. The petitioner and her husband- Saravanan were kept at Thilagar Thidal (L&O) Police Station from 10.30 A.M. onwards on 18.01.2023.

(iv).While so, as if the petitioner and her husband were outside the Police Station, the 4th respondent served the Notices under Section 41(A) Cr.P.C. to petitioner and her husband in person at 2.30 p.m. Thereafter, they were called upon to appear before the Investigation Officer, Thilagar Thidal (L&O) Police Station on 18.01.2023 that too, without fixing the time for



W.P.(MD).No.1650 of 2024

WEB COPY

appearance before the Investigation Officer. The 4th respondent did not engage a Woman Police personal for physical body check up on the petitioner (a Woman). The 4th respondent (i.e. Male Inspector) himself made physical body check up on the petitioner (Woman) and touched the entire body of the petitioner and caused sexual harassment and acted in an awkward manner.

(v).At 5.00 P.M., though the petitioner is defacto-complainant, the 4th respondent had registered an FIR No.57/2023, dated 18.01.2023 against the petitioner and her husband and arrested the petitioner and her husband, by receiving a false complaint from Ramesh. When, the petitioner requested the 4th respondent to intimate her arrest, to her parents or to other named persons, who would take care of the petitioner's 5 year old son or to inform their Advocate, the 4th Respondent refused to accept her request. The 4th respondent gave Arrest Intimation to an unknown person viz. Palani, Village Assistant, Melamadaai Village, Madurai West in violation of law. The 4th to 6th respondents had ill treated and abused the petitioner and her husband using filthy language within the Police Station and outside the PS ie. in public place and dragged them to Police Jeep and thus, tarnished the image of a woman in public. The 4th and 6th respondents have threatened to make a Complaint to Revenue Divisional Officer to take action under Sec. 145 Cr.P.C. and seal the petitioner's



W.P.(MD).No.1650 of 2024

WEB COPY
Tyre Shop. Though the petitioner and her husband suffered blood injuries during the attack by Ramesh at 10.00 A.M., the 4th to 6th respondents had taken and admitted them at Govt. Rajaji Hospital, Madurai only at 06.25 P.M on 18.01.2023 and thus Medical Treatment was denied to the petitioner from more than 8 hours.

(vi).After admission of the petitioner in the Government Rajaji hospital, on the request of the fourth respondent, the learned Judicial Magistrate No.2, Madurai visited the hospital on 20.01.2023 and being satisfied that the accused is not in a movable condition and not in a position to be produced before the Court and after considering that the arrest was not intimated to the family members and relatives and considering the presence of a 5 year old child and that the care of mother is necessary, the learned Judicial Magistrate enlarged the petitioner on bail and remanded the petitioner's husband Saravanan with a direction to the prison authority to give proper and necessary treatment.

(vii).Aggrieved on the violation of law, on the illegal detention and arrest of the petitioner, who made a complaint against one Ramesh, who was ill treated by the fourth to sixth respondents at Thilagar Thidal (L & O) Police Station on 18.01.2023, the petitioner made a complaint, dated 21.03.2023 to



W.P.(MD).No.1650 of 2024

the third respondent to take appropriate action. However, there was no response to the said complaint. Hence, the petitioner filed Crl.MP.No.1587 of 2023, on the file of the learned Judicial Magistrate No.II, Madurai and the learned Judicial Magistrate vide order, dated 05.07.2023 directed the SHO of Thilagar Thidal (L & O) Police Station under section 156(3) of the Code of Criminal Procedure to conduct an investigation and to take necessary action and to file a report on 04.08.2023 and the said case is pending. Thereafter, the petitioner has sent a detailed complaint, dated 24.06.2023 to the second respondent to take departmental action as against the fourth to sixth respondents on the dereliction of bounden duty and disobedience of law rules and procedure, with respect to the illegal detention of the petitioner at Thilagar Thidal (L & O) Police Station from 10.30am to 5.00 pm on 18.01.2023 under the guise of inquiry on the complaint made by the petitioner against one Ramesh. Further, the entire chain of events narrated supra was also incorporated in the said complaint. However, the second respondent did not consider the petitioner's representation/complaint, dated 24.06.2023. Hence, this petition came to be filed.



W.P.(MD).No.1650 of 2024

WEB COPY

3.The learned counsel for the petitioner took me along the affidavit filed by the petitioner, vehemently submitted that the remand order of the learned Judicial Magistrate No.II, Madurai, dated 20.01.2023 itself would reveal volumes of the violation committed by the fourth to fifth respondents. Relying upon section 15A of the Tamil Nadu Police Reforms Act, 2013, the learned counsel for the petitioner insisted that the District Police Complaints Authority shall inquire into the allegations of misconduct or serious misconduct against the Police personnel in subordinate ranks, on receipt of complaint from a victim in the form of a sworn affidavit duly attested by a Notary public. He further submitted that, pursuant to the orders passed by the Hon'ble Apex Court in the case of Prakash Singh and others Vs Union of India and others reported in 2006 (08) SCC 1, the Police Complaints Authorities have been introduced in India and in the State of Tamil Nadu, the State Police Complaints Authority has been established at state level, which is headed by the first respondent and the State Police Complaints Authority at its meeting held on 23.12.2022 decided that, the complaints against Police personnel up to the rank of Inspector of Police shall be given to the concerned District Collectors, which has been already communicated in the press release P.R.156, dated 23.12.2023 of the first respondent. He further insisted that on receipt of the petitioner's detailed



W.P.(MD).No.1650 of 2024

complaint, dated 24.06.2023 as against the fourth to sixth respondent's Police about the dereliction of duty, disobedience of law, rules and relevant procedures, the second respondent ought to have taken action against the fourth to sixth respondents. However, the petitioner's complaint is kept in abeyance without consideration of the petitioner's plight. Hence, it has become necessary for the petitioner to file this petition. The petitioner's only request is to direct the second respondent to conduct an enquiry and take appropriate disciplinary action against the fourth to sixth respondents based on her complaint, dated 24.06.2023. On that basis, he pressed for allowing the writ petition.

4.Per contra, the fourth and sixth respondents have filed their respective counter affidavit. The learned counsels for the respondents 4 & 6 took me along the counter affidavit filed by the fourth and sixth respondents respectively.

5.Heard the rival submissions made by the respective parties and carefully perused the materials available on the record.



W.P.(MD).No.1650 of 2024

WEB COPY

6.The contention of the petitioner is that on 18.01.2023 at about 10.00 hours, when one Ramesh trespassed into the petitioner's husband's tyre shop and attacked the petitioner and her husband causing blood injury and looted the tyres and money, the petitioner made a complaint to the Police Control Room. Only on the instance of her complaint, the fourth respondent had come to the place of occurrence and took the petitioner, her husband and the said Ramesh to Thilagar Thidal (L & O) Police Station.

7.It is pertinent to mention here that the petitioner's husband is a handicapped person. In a twist of events on being taken to the Police Station, the fourth to sixth respondents kept the petitioner and her husband under illegal custody from 10.30 am to evening on the same day at Thilagar Thidal (L & O) Police Station. At about 11.45 hours, on receipt of the complaint from the petitioner, a case in Cr.No.in FIR No.56 of 2023 was registered as against Ramesh and others at 11.45 hours. Interestingly, a complaint was also received from the said Ramesh at 11.50 hours as against the petitioner and her husband, and their lawyer one Mr.Rajaguru and an FIR in Cr.No.57 of 2023 came to be registered as against them. Having detained the petitioner and her husband at 11.45 hours, fourth to sixth respondents had taken and admitted them at



W.P.(MD).No.1650 of 2024

Government Rajaji Hospital, Madurai only at 6.25 pm on 18.01.2023, thereby, denying the petitioner and her husband with proper medical treatment for more than 8 hours. The remand order of the learned Judicial Magistrate No.II, Madurai, dated 20.01.2023 is extracted as follows:

Remand order

Accused not produced. I.O. present and submit this request at 2.45p.m. At 19.01.2023. It is reported that A1 and A2 are admitted in hospital and request this court to proceed to hospital for remand, medical practitioner certificate also produced. But that certificate is not reflected the movable condition of A1 and A2. So the certificate was not issued as per Rule 6 of Criminal rules of practice. As per rule 6 of Criminal rules of practice this court satisfied that the accused is not in position to movable condition and not in a position to produce before this court. But this certificate is not reflected that samed.. Hence this remand request is returned for want of proper medical certificate as per Rule of 6 Criminal Rules of Practice 2019.

This remand request represented on 19.01.2023 at 7.26 p.m at court. This court proceed to GRH, Madurai on 20.01.2023 at 12.30 p.m. A1 and A2 produced before me on 20.01.2023 at 12.39 p.m. Grounds of arrest explained. Arrest intimated to VAO. Not intimated to family members and relatives. Concept of Legal aid explained. Counsel for both accused present at the time of remand. Complaint raised by A1 against police. A1 reported that போலீஸ் அடிக்கவில்லை. ஆனால் திட்டினார்கள். இன்ஸ்பெக்டர் சங்கர்



W.P.(MD).No.1650 of 2024

என்னிடம் போலிஸை எதிர்த்து கேஸ் போட்டால் இது தான் நிலைமை என சொன்னார். தகாத வார்த்தையில் திட்டினார். No external injuries for A1 & A2. A1 reported that வெஜினாவில் ரத்தம் வந்தது. ரமேஷ் என்பவர் என்னை அடித்ததால் ரத்தம் வந்தது. 100க்கு நான் தான் போன் செய்தேன். எழுத்து மூலம் Complaint கொடுக்க சொல்லி என்னை அழைத்து சென்றார்கள். காவல் நிலையத்தில் வைத்து நான் எழுதிக் கொடுத்த Complaint-யை வாங்காமல் போலிசார் சொன்னபடி ஊழாதிடயவை எழுதி கொடுக்கச் சொல்லி கேட்டார்கள். அதன்படி எழுதிக் கொடுத்தேன். 2 மாதங்களுக்கு முன் .operation செய்துள்ளேன். Operation செய்துள்ள வயிற்றில் குத்தியதால் வயிறு வலிக்கிறது. காலுக்கு பிசியோதெரபியிடம் சிகிச்சை எடுத்து வருகிறேன். Record perused previous cases pending against these accused on perusal of records it is reveals that previous motive is there between the parties of this case. Prima facie case made out. But A1 reported that 5 வயதில் குழந்தை இருக்கிறான். இப்போது எங்கே யார் கண்காணிப்பில் உள்ளான் எனத் தெரியவில்லை. தகவல் யாரிடமும் சொல்லாததால் உறவினர்களிடம் குழந்தையை ஒப்படைக்க முடியவில்லை. Since "the age of child is 5, the presence & case of mother is necessary. Hence this court think remand of this A1 is not necessary in this case This is a case & case in counter. The defacto complainant in this case is remanded yesterday in Cr.No. 56/2023. Previous motive is there. Hence A2 alone remanded in judicial custody till 03.02.2023. The Ai is directed to furnish two sureties for future appearance for Rs.10,000/- each. The A1 is directed to sign before this court for 15 days at 10.30 A.M & cooperate that investigation. The prison authroity is directed to give proper and necessary treatment to A2."



W.P.(MD).No.1650 of 2024

WEB COPY

8. Thereafter the petitioner had sent a detailed complaint, dated 24.06.2023 to the second respondent against the fourth to sixth respondents and the crux of the said complaint is as follows:

“(i).illegal detention at Thilagar Thidal (L&O) Police Station from 10.30 A.M. to 5.00 P.M. on 18.01.2023 under the guise of enquiry on the complaint made by the petitioner against the accused – Ramesh,

(ii).not providing medical assistant or first aid to the blood injury caused during the attack by the accused-Ramesh,

(iii). illegal registration of FIR No.57/2023 against the petitioner and her husband, when the petitioner has made the complaint against the accused-Ramesh,

(iv). even when the defacto-complainant/Petitioner and her husband were kept under illegal detention at Thilagar Thidal (L&O) Police Station from 10.30 A.M, issue of Sec.41(4)Enquiry Notice is a manipulation of record,

(v).non-engagement of Woman Constable for physical body check up of petitioner (Woman),

(vi).Physical body check up of the petitioner (Woman) by the 4th respondent (Male Inspector) causing sexual harassment and awkwardness to the de-complainant/ petitioner,

(vii).abusing the petitioner using filthy language within the Police Station and outside Police Station, wanton denial to give arrest intimation to the parents of the petitioner / her advocate etc.”



W.P.(MD).No.1650 of 2024

WEB COPY

9.The learned counsel for the sixth respondent questioned the maintainability of this writ petition on the ground that the same has been filed on behalf of the petitioner by one advocate Rajaguru, who was one of the co-accused in Cr.No.56 of 2023 at the first instance when the same was registered and it was only at the later part of time, the said lawyer's name was removed from the said FIR. However, on a perusal of the vakalath filed on behalf of the petitioner, it is seen that the said vakalath has been filed by Advocate Rajaguru and another Advocate, namely Suresh Kumar. That apart, one Advocate Anand Swamy appeared on behalf of the petitioner as the arguing counsel of the petitioner. In view of the same, the submission of the sixth respondent's counsel questioning the maintainability of writ petition is not sustainable. Having admitted that the property dispute among the petitioner's husband Saravanan and his brother Madhu Pandian has resulted in several civil and criminal cases pending before various Courts, the learned counsel for the sixth respondent proceeded to submit that the petitioner and her husband are keen in taking the whole possession of the property in dispute forcibly and unlawfully without approaching the competent civil Court, using her undue influence through unlawful means and measures.



W.P.(MD).No.1650 of 2024

WEB COPY

10.This Court is not happy with the manner, in which, the sixth respondent in his affidavit has described the personality of the petitioner. For clarity, the relevant portion of the said affidavit is extracted as follows:

“We are really are afraid of the petitioner as she is arrogant, adamant, volatile and self hurting attitude to charge on the police, even at the stage of being a Law student, who has become the reason for the registration of 12 FIRs from both sides. The petitioner is not having any public morality or decency or ethics to be followed by a Law student, which is a valuable course to serve the society. Thinking the petitioner becoming an Advocate in the oncoming days really makes me nightmare. Taking advantage of Law studentship, the petitioner is become habituated constantly and continuously to infringe the provisions of law. She is so adamant and arrogant during all the time of her vist to the police station”.

11.This itself would suffice to prove the inimical attitude and predetermined notion of the sixth respondent with respect to the petitioner. Further the fourth respondent's counsel has duly submitted the CCTV footage as evidence to prove that there had been no Police excess as alleged by the petitioner. However, when the said CCTV footage was examined by this Court, same contained six different video footages taken on 18.01.2023 at Thilagar Tidal (L & O) Police Station between 16.09.59 to 16.14.59, 16.20.00 to



W.P.(MD).No.1650 of 2024

16.24.59, 16.05.00 to 16.09.59, 15.25.00 to 15.29.59, 14.50.00 to 14.54.59, 16.35.00 to 16.39.59 and 15.29.00 to 15.29.59. Though it is quite clear that the FIR in Cr.No.56 of 2023 was registered at 11.45 hours and FIR in Cr.No.57 of 2023 was registered at 11.50 hours on 18.01.2023, the respondents have refrained from producing the video footages right from the time from which the petitioner, her husband and the said Ramesh were brought into the Thilagar Tidal (L & O) Police Station, but have produced only those footages only after 14.50.00 running for a few minutes. The reluctance of the respondents to produce the entire video footage itself would suffice to smell a rat which could open a can of worms in the entire episode. The press release, dated 23.01.2023 of the Additional Chief Secretary to the Government Home Department with respect to the introduction of the District Police Compliance Authority in compliance with the order of the Hon'ble Apex Court in Prakash Singh and Others versus Union of India and Others case is extracted as follows :

Press Release

*The State Police Complaints Authority met on 23.12.2022.
The complaints against Police personnel up to the rank of
Inspector of Police shall be given to the concerned District
Collectors and the complaints against supervisory ranks, i.e. from
the rank of Deputy Superintendent of Police and above, shall be*



WEB COPY



W.P.(MD).No.1650 of 2024

given to the State Police Complaints Authority headed by the Home Secretary, Secretariat, Chennai-9, to carry out investigation and for taking further action.

12. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of Constitution of India and direct the respondents to consider the same within a stipulated time.

13. In view of the facts and circumstances of this case, this Court hereby direct the second respondent to consider the petitioner's complaint, dated 24.06.2023, conduct an inquiry by giving opportunity to all the stakeholders including the fourth to sixth respondents along with the petitioner, thereafter, pass appropriate orders in accordance with law within a period of twelve (12) weeks from the date of receipt of copy of this order.



W.P.(MD).No.1650 of 2024

WEB COPY

14. Accordingly, this petition stands disposed of. There shall be no

order as to costs.

26.03.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

PNM

To

1. The State Police Complaints Authority / Additional,
Chief Secretary to Government,
Home Department, Secretariat,
Chennai - 600 009.
2. The District Collector,
Madurai District Collectorate,
Madurai - 625 020.
3. The Commissioner of Police,
Madurai City,
Alagarkoil Road, Madurai - 625 002.



WEB COPY



W.P.(MD).No.1650 of 2024

L.VICTORIA GOWRI, J.

PNM

ORDER IN
W.P.(MD).No.1650 of 2024

26.03.2024