

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-02-2015

Coram :

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

Writ Petition No. 24390 of 2014
and
M.P. No. 1 of 2014

S.D. Prabhakaran
Officer in charge/Superintendent
Observation Home
Coimbatore .. Petitioner

Versus

The Inspector of Police
B-4 Police Station
Race Course Road
Coimbatore - 18 .. Respondent

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the Inspector of Police to make further investigation and file a charge sheet against the accused in Crime No. 542 of 2014 on the file of Inspector of Police, B-4 Police Station, Coimbatore.

For Petitioner : Mr. C. Deivasigamani
For Respondent : Mr. S. Gunasekaran
Government Advocate

ORDER

Heard the counsel for the parties. The respondent has filed a counter affidavit denying the averments made in the affidavit in support of the writ petition. The relevant paragraph of the counter affidavit can usefully be extracted as follows:-

"7. I humbly submit that the petitioner contention in para No.5 of the affidavit that in consequence of injury that he sustained he was admitted in CMCH on the same day and a statement was recorded by the constable, which was not registered as a case is not correct. The case has been registered Under Section 160 IPC and in that circumstances even any statement as stated by the petitioner was received by any constable, it would amount to a signed statement received during the course of investigation and as such it is hit by Section 162 of Cr.P.C. Under such event, no case could be registered on the strength of the same. The other averments of the petition in the same para that the petitioner has sent a complaint to the Commissioner of Police is an

afterthought if actually so, it would have been mentioned in the previous quash petition in CrI.O.P. No. 16580 of 2014, which was rightly dismissed by this Honourable Court on 06.07.2014 to quash the FIR. Further the contention of the petition on the strength of the complaint of Latha a case in Cr.No.542 of 2014 was registered by the Inspector of Police, B-4 Race Course P.S. is also not correct. The case has been registered only on the complaint of the defacto complainant Chinnasamy. It is true that now a charge sheet has been laid Under Section 323 IPC & 4 of TNPHW Act and which is pending as C.C. No. 249 of 2014 in the file of JM-III, Coimbatore. The further allegations that the investigation is impartial and one sided, and is unreasonable, arbitrary and conjuncture and all are incorrect and motivated one.

8. I humbly submit that the petitioner against whom a complaint has been preferred by witness Latha with the Honourary Secretary, Juvenile Observation Home who in turn ordered for preliminary enquiry to be conducted by witness Manokarana nd Venkatesulu resulting an order of suspension of the petitioner, having got offended on 11.04.2014 at about 11.00 hours the petitioner has acted criminally against the witness Latha amounting the offences under Section 323 & 4 of TNPHW Act for which a final report had been filed after fair and impartial investigation and the enquiry is still pending in the department for the alleged misbehaviour of the petitioner continuously for the past 4 months prior to 09.04.2014 to escape from the clutches of law, the petitioner has come forward with this writ petition."

2. In the light of the averments made in the counter affidavit filed by the respondent, I find no reason to grant the relief sought for by the petitioner in this writ petition. The petitioner has not made out any case for interference. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Inspector of Police
B-4 Police Station
Race Course Road
Coimbatore - 18

Copy To:

1.The Judicial Magistrate III, Coimbatore

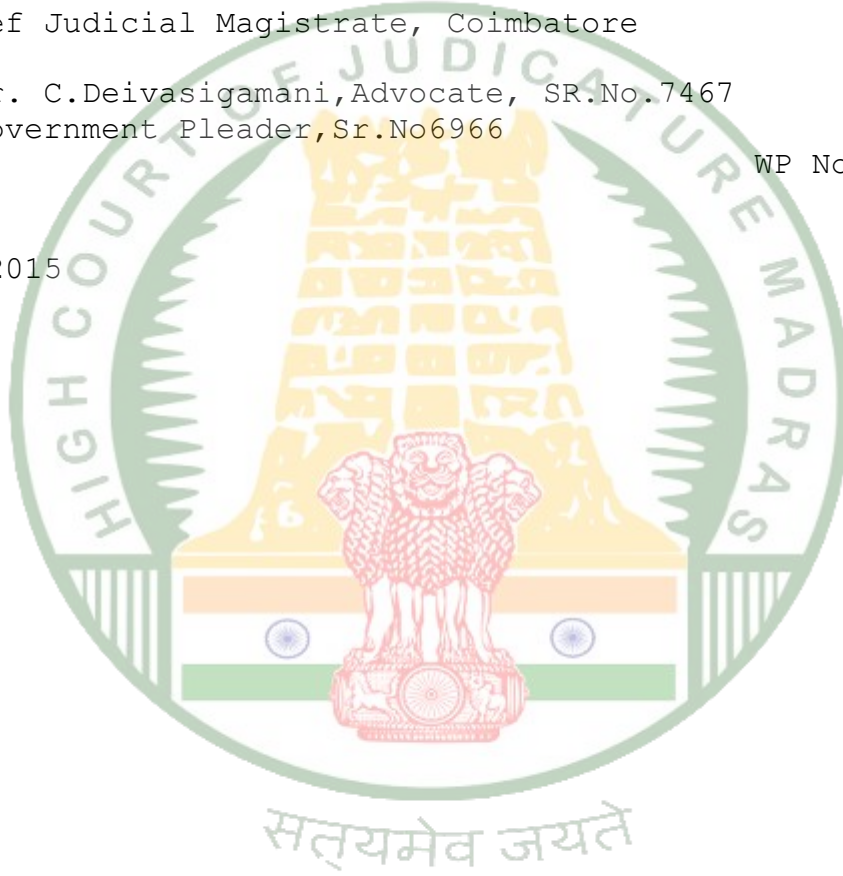
2.The Chief Judicial Magistrate, Coimbatore

1 cc to Mr. C.Deivasigamani, Advocate, SR.No.7467

1 cc to Government Pleader, Sr.No6966

WP No. 24390 of 2014

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