

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

W.P.No.19438 of 2015

A.Jaiganesh

... Petitioner

-VS-

1. Tamil Nadu thro' its Chief Secretary,
Fort St. George,
Chennai.
2. Madras High Court thro' its Registrar General,
Chennai.

... Respondents

Petition under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the respondents to ensure that, all judicial & Quasi-judicial for a in the State re-arrange their paraphernalia in such a way, as to treat victims, witnesses & suspects with dignity, & serve a fair trial, by offering them a SEAT, at a distance equivalent to the prosecutor & defence counsel.

For Petitioner : Mr.Manikandan Vathan Chettiar
for
Mr.R.Mathan Kumar
For Respondents : Mr.STS.Moorthy
Government Pleader

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner seeks to file the Public Interest Litigation seeking to provide dignity to the litigants who come to the Courts, especially when the Courts are exercising criminal jurisdiction.

2. We may notice that the petitioner is the Secretary of ''Satta Panchayat Iyakkam'' and its President had an occasion to appear in the proceedings before the State Information Commission. That is the subject matter of some Court proceedings and we would not like to comment on that. Dehors that aspect, the short grievance made as

set out in the facts are only contained in paragraph 2 of the affidavit, which reads as under:-

"2. In Tamilnadu, citizens who are arraigned as suspects (accused) & summoned by criminal courts are denied a SEAT, and forced to stand for hours together, for days together. Even expectant / pardanashin ladies cannot be seated, for want of a designated SEAT, in the court-halls designed in Victorian style. Suspect-Stand's are designed for standing posture, resembling pet-cages, mounted at the far-end of the court-hall at about 25 to 30 feet from the dais. This is far-beyond the audible range, and the suspect is kept blissfully unaware of what transpires between Counsel & Court. Similarly he/she cannot hear the witnesses. The same is the state of affairs in civil courts, and also quasi-judicial for a, which have been conferred with powers of summoning witnesses and recording evidence."

3. We find it difficult to accept that any Court would deliberately make a pardanashin woman or an expectant mother to stand in the Court. In fact, the normal practice, which is followed and ought to be followed is that when a person is of advanced age or an expectant lady, even in the witness box, if required, that person can be seated. The purpose is to record the testimony and not to cause pain or physical inconvenience.

4. The learned counsel for the petitioner submits that there is no designated place for seating of the complainant or accused. The other lawyers present in Court state that in most of the Courts, there is a designated place for lawyers and there are benches available for the litigants. We again see no reason why, if there are benches vacant, even the accused who come to the Court cannot be seated there. If we may say so, the issue is one of sensitivity in holding the Court proceedings, which we expect the Judges to adhere to.

5. The learned counsel for the petitioner has drawn our attention to the judgment of the Apex Court in Avtar Singh and others v. State of Madhya Pradesh, AIR 1982 SC 1260 wherein while dismissing the SLP, the Court has made the following observations:-

"2. One of the grounds on which the learned Sessions Judge is said to be biased against the accused is that he did not allow them to sit down during the trial. It is not right or proper that the accused were not provided with a sitting place during the trial which has gone on for the past seven months. We direct that the learned Sessions Judge will permit the accused to sit down during the trial."

In fact, we are unable to understand how any Court in our country can at all insist that the accused shall keep on standing during the trial, particularly when the trial is long and arduous as in this case. We hope that all the High Courts in India will take appropriate steps, if they have not already done so, to provide in their respective Criminal Manuals prepared under Section 477(1) of the Criminal P.C. that the accused shall be permitted to sit down during the trial unless it becomes necessary for the accused to stand up for any specific purpose, as for example, for the purpose of identification. We need not add that the facility to be accorded to the accused for sitting down during the trial should not be construed as in derogation of the established convention of our Courts that everyone concerned should stand when the President Officer enters the Court. With these observations we dismiss the Special Leave Petition."

6. The aforesaid being the dictum laid down by the Apex Court, all the Courts would be expected to follow the same and this issue will be looked into by the Registrar General of this Court and if required, necessary direction/office order can be issued.

7. With the aforesaid observations, we close the proceedings. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

bbr

Sub Assistant Registrar

To

1.The Chief Secretary,
Government of Tamil Nadu,
Fort St. George, Chennai.

2.The Registrar General,
High Court, Madras.

3. The Section Officer,
Legal Cell,
High Court, Madras.

GGK(CO)
CA(28/07/2015)

W.P.No.19438 of 2015