

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2015

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Crl.O.P.No.26999 of 2015

Mr.K.Vijaya Kumar

... Petitioner

Vs.,

1.State rep. by Inspector of Police,
Villupuram Taluk Police Station.

2.The Superintendent of Police,
Villupuram,
Villupuram District.

3.DIG of Police,
Villupuram,

4.Director General of Police (DGP),
Chennai.

... Respondents

Prayer: Petition filed under Section 482 of the Criminal Procedure Code praying to direct the respondents to register the F.I.R. On the complaint dated 15.10.2015 and investigate the matter in accordance with law.

For Petitioner : Mr.K.Vijayakumar (party-in-person)

For Respondents : Mr.C.Emalias, APP

ORDER

This Criminal Original Petition has been filed by the petitioner praying to direct the respondents to register a case on the basis of the complaint dated 15.10.2015 given by the petitioner and to investigate the same in accordance with law.

2.In the affidavit filed in support of this petition, it has been stated by the petitioner that he is a practising advocate at Villupuram. He is a Founder and President of the World Youth Welfare Association. There was a love affair between one Sathish S/o.Kamalakaran, aged 21 years, who belongs to Schedule Caste, and one Ms.Sowmia D/o.Shanmugadura, aged about 17 years and 8 months and they got married; but their parents are against their marriage. Under such

circumstances, on 27.05.2013, on the instruction of one Ahmed, the petitioner called the said Sathish and his wife Sowmia to his house and gave counseling. While so, the said Ahamed informed the parents of the said Sowmia that they are in the safe custody of the petitioner-Advocate. On 28.05.2013, a team headed by one Mr.Rajapandidurai - Inspector of Town Police, Viruthachalam, Agilan - Sub-Inspector of Police, Ashok-Inspector of Police, Kamalakannan, Shanmugadurai (father of Sowmia) and Gurusamy (brother of Shanmugadurai) came to Villupuram and met the petitioner. There was conversation among them, but subsequently, they attacked the petitioner. Then, the Inspector of Police, Villupuram came to the spot and informed that he had come only to arrest the petitioner. Thereafter, they kidnapped the petitioner. The said incident occurred at 6.30 pm on 28.05.2013. But, they did not produce the petitioner before the concerned Judicial Magistrate. After 24 hours, they took the petitioner to the residence of the Judicial Magistrate. Thereafter, the petitioner was remanded into Central Prison of Cuddalore, for about 22 days. It is further case of the petitioner that because of the illegal act of the said accused persons, the reputation of the petitioner, as an Advocate, was spoiled among the public and advocates. Hence, the petitioner has lodged the complaint with the respondent-Police on 15.10.2015. Since no action was taken by the respondent-Police, the petitioner has come forward with the present petition before this Court.

3.The 1st respondent-police has filed a counter stating that the then Inspector of Police, Virudhachalam Circle, Cuddalore District had arrested the petitioner, who was 2nd accused in connection with Crime No.436 of 2013 under Section 120(B), 364-A, 347 r/w 109 IPC, on 28.05.2013 and recorded his confession statement and also seized cash of Rs.50,000/-, two mobile phones, one yamaha bike, under the cover of mahazar, in the presence of the witnesses. Thereafter, the petitioner was remanded to judicial custody along with the other accused persons on 29.05.2013 and the petitioner's was lodged in Central Prison, Cuddalore, for a period of 22 days. At the time of his production before the concerned Judicial Magistrate, the petitioner did not state any complaint against the police officials or about any ill-treatment to him. After completion of the investigation, based on the examination of witnesses and also based on the opinion of the Deputy Director of Prosecution, the chargesheet was filed on 16.09.2015 as against the accused persons (A1 to A9) and the petitioner has been arrayed as 2nd accused. The chargesheet was taken on file by the learned Judicial Magistrate No.1, Virudhachalam, in P.R.C.No.12/2015 on 18.09.2015. Now, the said case is pending for trial. Due to the vengeance, after a lapse of about two years, the petitioner has filed a petition vide C.M.P.No.2919 of 2015 before the learned Judicial Magistrate No.1, Villupuram, praying to register FIR as against the Police officers; but the said petition was dismissed by the Court below on 04.04.2015 on the ground that

the petition is not maintainable. Thereafter, the petitioner has approached the Sessions Court, Villupuram, as against the order of dismissal dated 04.04.2015. But, suppressing the said materials facts, the petitioner has again filed the present complaint on the same set of allegation. Thus, the respondents-police sought for dismissal of the petition.

4.The learned counsel for the petitioner made a detailed submission, stating that when the complaint discloses cognizable offence, the respondent-police is duty bound to register the FIR. Since they refused to register the FIR, the petitioner has filed the present petition.

5.The learned Additional Public Prosecutor submitted that the petitioner had already filed a petition in C.M.P.No.2919 of 2015 before the learned Judicial Magistrate No.I, Villupuram, which was dismissed; thereafter, he has moved the Sessions Court. But, suppressing these facts, the petitioner has filed the present petition on the same set of allegations.

6.Keeping the submissions made on either side, I have carefully perused the materials available on record and I find that the petitioner had already approached the learned Judicial Magistrate No.1, Villupuram, for registering the FIR on his complaint, but the same was dismissed, against which he has approached the Sessions Court. But, these facts were not mentioned in the affidavit filed in support of this petition. Since there is suppression of material facts on the part of the petitioner, I am of the opinion, the petitioner is not entitled to any relief in the present petition. The petition is liable to be dismissed.

Accordingly, the criminal original petition is dismissed.

सत्यमेव जयते

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

ssv

Copy to_

- 1.The Inspector of Police,
Villupuram Taluk Police Station.
- 2.The Superintendent of Police,
Villupuram, Villupuram District.
- 3.DIG of Police, Villupuram.
- 4.Director General of Police (DGP), Chennai.
- 5.The Public Prosecutor, High Court, Madras.

CrI.O.P.No.26999 of 2015

vs. Co. kra. 09.12.2015