

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.27169 of 2014

Krishnan

... Petitioner

Vs

1. DGP
Beach Road, Mylapore,
Chennai.
2. Pitchai,
DSP
Udumalpet Town,
Tiruppur District.
3. Mahendran,
IOP
Gudimangalam PS,
Tiruppur District.

... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to seek initiation of action against the 2nd and 3rd respondents in terms the 2nd sentence of para 111 [iv] of the Constitution Bench Judgment in WP [Crl].No.68 of 2008 dated 12.11.2013.

For Petitioner : Mr.S.Vinoth Mr.Shanmuga velayutham,P1
For Respondents : Mr.S.Vijayakumar, for R1 to R3

सत्यमेव जयते
O R D E R

This petition has been filed to seek initiation of action against the 2nd and 3rd respondents in terms of the 2nd sentence of para 111 [iv] of the Constitution Bench Judgment in WP [Crl].No.68 of 2008 dated 12.11.2013.

2. It is seen that this petitioner has lodged a complaint to Gudimangalam Police Station, Tiruppur, which, according to the petitioner was not investigated and no action has been taken by the police. Therefore, the petitioner has filed the present petition making wild and defamatory allegations against respondents 2 and 3 who are police officials.

3. Mr.S.Shanmuga Velayutham, learned Public Prosecutor submits that on the complaint given by this petitioner, a case in Crime No.272 of 2014 was registered on 12.10.2014 for offences under Section 294B and 506[i] IPC. Therefore, the allegations by the petitioner that no case was registered on his complaint, is not true.

4. Be that as it may, under ordinary circumstances, when a petition for a direction to the police to register an FIR on a complaint given by a person is filed and when it is represented by the Public Prosecutor that the police have registered an FIR, this Court would record the crime number and will close the case. In this case, in paragraph No.6 of the petition, the petitioner has made the following allegations :

"[6] The Public Prosecutor Shri.Shanmugavelayudham is duty-bound to place the entire records relating to this case before the Hon'ble Court and cannot in his usual style avoid such placement in defiance of the authority of this Constitutional Court." [extracted verbatim]

5. The Bar Council of India has framed rules setting the standard of professional conduct and etiquette to be observed by the advocates under Section 49[1][c] of the Advocates Act. Bar Council Rule No.4 reads as follows:

"4. An advocate shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practices of from doing anything in relation to the Court, opposing counsel or parties which the advocate himself ought not to do. An advocate shall refuse to represent the client who persists in such improper conduct. He shall not consider himself a mere mouth-piece of the client, and shall exercise his own judgment in the use of restrained language in correspondence, avoiding scurrilous attacks in pleadings, and using intemperate language during arguments in Court."

6. The counsel on record Mr.S.Vinoth is associated with the office of Mr.Manikandan Vathan Chettiar who has been appearing in this case all along. This is not merely an isolated incident of such uncharitable allegations being made against Mr.S.Shanmuga Velayutham. Mr.Manikandan Vathan Chettiar's office has been consistently making such allegations as could be seen in the averments in Crl.OP.No.7278 of 2015 and Crl.OP.No.28306 of 2014.

7. Mr.S.Shanmuga Velayutham is a Senior Advocate of this Court and presently, he is the Public Prosecutor appointed by the State Government for this High Court. Therefore, he holds a very responsible position in the State apparatus and he definitely does not deserve such an uncharitable remark referred to above.

8. This Court cannot be a silent spectator to such insinuation

being unleashed against the Public Prosecutor of the State in pleadings which will remain as a blot forever, as this is a court of record.

9. In view of the above, this petition is dismissed with cost of Rs.10,000/- payable by the petitioner to the Tamil Nadu Legal Services Authority. The Secretary, Bar Council of Tamil Nadu is directed to take disciplinary action against the counsel on record Mr.S.Vinoth, Enrolment No.3386/2013 for the aforesaid violation making allegations referred to above in paragraph No.6 of the petition against Mr.S.Shanmuga Velayutham, Public Prosecutor. The Registry is directed to send a copy of the petition along with this order to the Secretary, Bar Council of Tamil Nadu for appropriate action.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1. Director General of Police,
Beach Road, Mylapore,
Chennai.
2. Deputy Superintendent of Police,
Udumalpet Town,
Tiruppur District.
3. Inspector of Plice,
Gudimangalam PS,
Tiruppur District.
4. The Public Prosecutor,
High Court,
Madras.
5. The Secretary,
Bar Council of TamilNadu,
Madras.

+lcc to The Public Prosecutor, sr.38539
+lcc to Mr.S.Vijayakumar, Advocate sr.38188

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kk[co]
srg 07.08.2015