



WEB COPY

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.10.2015

CORAM :

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Appeal(MD) No.1040 of 2015

K.Madhana Gopal

... Appellant

Vs.

1.The Superintendent of Police,
Theni, Theni District.

2.The Inspector of Police,
Cumbum North Police Station,
Theni District.

3.The Inspector of Police,
Royappanpatti Police Station,
Theni District.

... Respondents

Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 26.08.2015 made in W.P.(MD)No.14758 of 2015.

Prayer in WP(MD). 14758/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertains to the impugned order passed by the 2nd respondent in No. Nil dated 07.08.2015 and quash the same and further Direct 2nd respondent to permit the petitioner organize demonstration as mentioned in the representation in any future date in accordance with law.

For Appellant

: Mr.S.Srinivasa Raghavan

For Respondents

: Mr.V.R.Shanmuganathan,

Special Government Pleader.

JUDGMENT

(Judgment of the Court was delivered by **R. SUDHAKAR, J**)

This writ appeal is directed against the order passed by the learned single Judge dated 26.08.2015 in W.P(MD)No.14758 of



2.The vehicle of the defacto complainant hit a person by name Kannan who was the employee of TNSTC. According to the respondent police, one Rajendran along with others went to the house of the defacto complainant and demanded compensation for the injury caused to the said Kannan stating that he lost his eye sight in the accident. It appears that when the said Rajendran approached the defacto complainant, a quarrel occurred between them. As a result, the defacto complainant has given a complaint against the said Rajendran who is office bearer of a political party in which the appellant is also office bearer. Based on the said complaint, a case in Crime No.196 of 2015 has been registered for the offences punishable under Sections 294(b), 435, 506(i) IPC and 109 IPC on the file of the third respondent police.

3.The appellant wanted to make demonstration against police alleging that based on a false complaint given by the defacto complaint, party member has been wrongfully arrayed as an accused and sought permission to conduct demonstration on 10.08.2015 which came to be rejected by the police authorities on 07.08.2015 stating that if permission is granted it would cause law and order problem. The learned single Judge before whom the appellant approached for mandamus to allow him to make demonstration, considering the issue dismissed the said writ petition. The relevant portion of the order of the learned single is extracted hereunder:-

6.Considering the rival submissions and upon perusal of the typed set of papers, the case of the petitioner is that one Rajendran is a member and officer bearer of the petitioner's party and that a case has been registered against him in Crime No.196 of 2015 for the offences under Sections 294(b), 435, 506(i) and 109 IPC on the file of the third respondent police station. It was stated that the de-facto complainant's vehicle hit a person namely one Kannan who is the employee of TNSTC. So, the case of the respondent is that the said Rajendran along with others had gone to the house of the de-facto complainant and asked for compensation, as the said injured Kannan lost his eye sight in the occurrence took place. The case of the petitioner is that the de-facto complainant hand in glove with the 3rd respondent, registered the false complaint.

7. Admittedly, a case was registered in Crime No.196 of 2015 on 06.07.2015 and the investigation is going on and not yet completed. During the course of investigation, the petitioner wants to conduct an ~~agitation~~ ^{demonstration} before AKG Thidal, Cumbum. Admittedly, AKG Thidal, is not coming within the jurisdiction of the third respondent police station. But, in the impugned



order it was wrongly mentioned. Learned Additional Government Pleader submits that Rajendran moved anticipatory bail with an averment that he had gone to the house of the de-facto complainant and demanded money and that there was a wordy quarrel between them, but the learned counsel for the petitioner refuted the same.

8. Be that as it may, the investigation is under process. The question as to whether the said Rajendran had gone to the place of occurrence has to be decided only after investigation. So, it is premature to conduct agitation while the investigation is going on. It is true that every person is having the freedom of speech and expression. But the freedom of speech and expression should not interfere with the investigation. So, the judgment in S.Sivabalan's case relied on by the learned counsel for the petitioner has no application to the case on hand.

4. Aggrieved by the above said order, the present writ appeal has been filed.

5. The said Rajendran approached the Court of competent jurisdiction seeking anticipatory bail justifying the reason for approaching the house of the defacto complainant and he has also stated that following a wordy quarrel between them, the said person has pursued legal remedy as per law. There is no bar for him to do so. There appears to be no restraint on that. The present plea is that the appellant should be permitted to make demonstration which was declined by the police authority primarily on the ground that it will create law and order problem and affect the investigation in the matter.

6. In what circumstances permission should be granted and how to maintain law and order situation, it is for the police to decide and the Court is not a forum to overturn the opinion of the police authorities relating to law and order problem. If the grievance of the appellant who is a member of political party is being harassed by the police for any reason whatsoever, there is a legal remedy available. The appellant can always assist the accused by supporting him in pursuing the legal remedy as well as approaching the higher authority by giving a complaint as to the error or illegality in the proceedings initiated. At this stage, we find no reason to grant relief as sought for by the appellant.

7. In the result, the writ appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)



To

1.The Superintendent of Police,
Theni, Theni District.

2.The Inspector of Police,
Cumbum North Police Station,
Theni District.

3.The Inspector of Police,
Royappanpatti Police Station,
Theni District.

+1cc to Mr.S.SRINIVASA RAGHAVAN, Advocate Sr.No.60019

+1cc to Spl.GOvernemnt Pleader Sr.No. 89786

SMS

AA/AMF/17.11.2015/4p-6c

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