



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2015

CORAM:

THE HONOURABLE DR. JUSTICE S.TAMILVANAN

and

THE HONOURABLE MR. JUSTICE V.S.RAVI

W.P. (MD) No.2265 of 2015

J.Sivabalan

... Petitioner

Vs.

1.The Registrar,
Madurai Bench of Madras High Court,
Madurai.

2.The Principal District Judge,
District Court, Thoothukudi.

3.The Chief Judicial Magistrate,
District Court Buildings,
Thoothukudi.

4.Rehana Beham,
Judicial Magistrate,
Santhankulam,
Thoothukudi District.

... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to constitute enquiry committee and enquire the issue on the basis of the petitioner's representation dated 10.09.2014 after providing opportunity to the petitioner.

For Petitioner : Mr.R.Balakrishnan

For Respondents : Mr.D.Venkatesh for R1 to R3

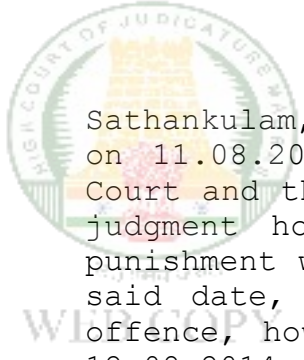
ORDER

(Order of this Court was made by S.TAMILVANAN,J.)

This Writ petition has been filed invoking Article 226 of the Constitution of India, seeking an order in the nature of Writ of Mandamus, directing the Registrar, Madurai Bench of Madras High Court, Madurai, the first respondent herein, to constitute an enquiry committee to enquire into the issue on the basis of the petitioner's representation dated 10.09.2014 against Ms.Rehana Beham, Judicial Magistrate, Sathankulam, Thoothukudi, the fourth respondent herein.

2.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents 1 to 3.

3.In the accompanying affidavit filed in support of the Writ petition the petitioner has stated that he is a practicing Advocate at Sathankulam and he appeared in a case in C.C.No.71 of 2010 on the file of the Judicial Magistrate, Sathankulam, on behalf of the accused one Natarajan. After the trial, the learned Judicial Magistrate,



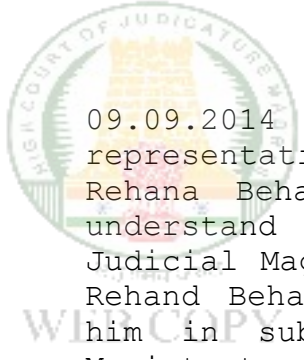
Sathankulam, the fourth respondent herein, posted the case for judgment on 11.08.2014. On the said date, the accused was present before the Court and the Judicial Magistrate at the time of calling hours pronounced judgment holding that the accused was guilty and also informed that punishment would be announced later. According to the petitioner, on the said date, judgment was pronounced, holding the accused guilty of the offence, however, punishment was imposed at 6 p.m. on the said date. On 12.08.2014 as the counsel filed copy application in C.A.No.387 of 2014 seeking copy of the judgment, however, to his shock and surprise, the learned Judicial Magistrate replied that copy of the judgment was already sent to the accused since he had refused to receive the same. The petitioner has stated further that the learned Judicial Magistrate passed the following order:

"as the accused is refused to get the free copy on the judgment day that is on 11.08.2014, the court ordered to send the free copy to his address by post and the free copy was sent to him by this Court vide D.No.2561/14 on the very same day that on 11.08.2014. Hence, this petition will not lie and not maintainable, as the free copy was already delivered. Hence, this petition is returned. (if the advocate needs the copy of the judgment, he may approach this court through correct section and proper procedure codes)."

4.The petitioner has also stated in his affidavit that the sentence was suspended by the Judicial Magistrate to enable him to prefer appeal. However, in paragraph no.9 of the the affidavit, the petitioner has stated that the words used by the learned Judicial Magistrate would show that she is quite unbecoming of a Judge, the way of expression and the body language of the Judicial Magistrate obviously meant that she was against Ethics and she was unnecessarily fighting with other advocates flaunting her might. The petitioner has further stated as follows:

"I submit that in view of the immature attitude of the Magistrate, we could not practice before the Court. The learned Judge cannot act as an ordinary woman. The fourth respondent is a misfit to be a Judicial Magistrate. If she is allowed anymore to be in the Honorable status of Judicial Magistrate, the innocent people will completely be affected and they can never get justice from the Court of law."

5.We want to make it clear that being an advocate, he has every right to challenge the order if any, passed by the Judicial Magistrate according to law. He is also entitle to make his representation against the Judicial Officer before the concerned Chief Judicial Magistrate or before the Principal District and Sessions Judge if need be. It is seen from the typed set of papers that the judgment was rendered in C.C.No.71 of 2010 on 11.08.2014, however, the petitioner filed his copy application only on the next date i.e., on 12.08.2014. Had he been present at the time the magistrate pronouncing the judgment, nothing could have prevented him in filing copy application on the same day itself. However, he sent a letter to the Chief Judicial Magistrate, Thoothukudi, Principal District Judge, Thoothukudi and also a representation addressing the Registrar, Madurai Bench of Madras High Court, only on



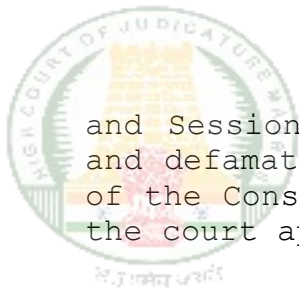
09.09.2014 raised allegation against the Magistrate. In his written representation, he has stated that recently the Hon'ble Mrs. Justice Rehana Beham was appointed in the month of May, 2014. We cannot understand how the petitioner a practicing Advocate could address the Judicial Magistrate, the fourth respondent herein, as Hon'ble Mrs. Justice Rehana Beham in his written representation and further, what prevented him in submitting a representation directly to the Chief Judicial Magistrate or to the District and Sessions Judge on same day itself or at least on the next day. He sent all his representations dated 09.09.2014 only by post for the reasons best known to him.

6. The words used by the petitioner stating that the learned Judicial Magistrate is quite unbecoming of a Judicial Magistrate, she used her body language against professional ethics and she has misfit to be a Judicial Magistrate are totally unreasonable and unwarranted. Being an Advocate, he should respect the institution and if there is any legal grievance, he can seek remedy according to law, however, he has no right to use improper words against a lady Magistrate. The Writ petition is based on unreasonable bald allegations against the Judicial Officer. Such unhealthy practice of the petitioner would tarnish the reputation and image of the institution, without any basis for the allegation.

7. Even according to the petitioner, the learned Judicial Magistrate, the fourth respondent herein had made an endorsement in the copy application on 12.09.2014 itself stating that the accused had refused to get free copy of the judgment on the date of judgment, hence, the same was sent by post to his address. Had the copy not been furnished on the same day i.e., on 11.08.2014, the petitioner could have filed copy application immediately, if it was not furnished, he could have brought it to the knowledge of the Chief Judicial Magistrate in writing. However, casually the petitioner by raising various bald and wild allegations and defamatory words against the lady Magistrate, on 09.09.2014 sent a representation by post for the reasons best known to him.

8. We are of the considered view that filing a Writ petition, against a Judicial Officer belatedly with bald allegation and seeking order of enquiry by merely sending petitions by post to the Chief Judicial Magistrate, Principal District Judge and Registrar of Madurai Bench of Madras High Court at Madurai, could be an unhealthy practice tarnishing the image of the institution, which should not be encouraged. Based on certain bald allegations, without any prima facie material, the petitioner cannot file Writ petition against the lady Judicial Officer with defamatory averments and seeking a direction against the Registrar, Madurai Bench of Madras High Court to constitute an Enquiry Committee, which is improper and unwarranted. There are two Registrars at Madurai Bench of Madras High Court viz., Registrar (Admin) and Registrar (Judicial) and further, the High Court should be represented only by Registrar General, hence, filing a Writ petition stating the Registrar, Madurai Bench of Madras High Court is also improper.

9. Having gone through the accompanying affidavit and other material papers, we are of the considered view that filing such a Writ petition is only a clear abuse of process of law, which cannot be encouraged by any Court. When efficacious alternative remedy is available to approach the concerned Chief Judicial Magistrate or District



and Sessions Judge, straightaway filing a Writ petition by raising bald and defamatory allegation against a Judicial Officer invoking Article 226 of the Constitution of India, is nothing but wasting the precious time of the court apart from abuse of process of law and the Court.

10. On the aforesaid facts and circumstances, we thought it just and reasonable to dismiss the Writ petition with the cost of Rs.25,000/- payable towards the Chief Justice Relief Fund. However, considering the fact that the petitioner is a young advocate practicing in the moffusil court, taking a lenient view, with an expectation that he would not resort to abuse the process of Court the Writ petition is dismissed without imposing any cost.

SD/-

Assistant Registrar (Per.Admn)

/True copy/

Sub Assistant Registrar

nbj

To

1. The Registrar,
Madurai Bench of Madras High Court,
Madurai.

2. The Principal District Judge,
District Court, Thoothukudi.

3. The Chief Judicial Magistrate,
District Court Buildings,
Thoothukudi.

COPY TO:

THE SECTION OFFICER,
ACCOUNT SECTION, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1CC TO MR.R. BALAKRISHNAN, ADVOCATE SR NO.8802

+1CC TO MR.D.VENKATESH, ADVOCATE SR NO.8247

W.P. (MD) No.2265 of 2015
23.02.2015

RG.25.02.2015

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