



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2015

CORAM:

THE HONOURABLE DR.JUSTICE S.TAMILVANAN

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

W.P. (MD) .No.2609 of 2015

S.Sathyabama

... Petitioner

Vs.

1. The Registrar General
Madras High Court,
Chennai.

2. The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai - 625 023.

3. The Superintendent of Police
Tirunelveli District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, directing the respondents to take appropriate legal action against the Judicial Magistrate, Nanguneri, Mr.Sundarrajan, on the basis of the petitioner's complaint, dated 09.07.2014, 14.07.2014 and 15.07.2014 respectively within the time limit, that may be fixed by this Court.

For Petitioner : Mr.G.Bagavath Singh

For Respondents : Mr.D.Venkatesh for R1 and R2
Mr.M.Alaguthevan, Spl.GP for R3

ORDER

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

The writ petition has been filed, seeking an order in the nature of Writ of Mandamus, directing the respondents to take appropriate legal action against the Judicial Magistrate, Nanguneri, Mr.Sundarrajan, on the basis of the petitioner's complaint, dated 09.07.2014, 14.07.2014 and 15.07.2014 respectively within the time limit fixed by this Court.

2. Heard the learned counsel appearing for the petitioner, learned counsel appearing for the respondents 1 and 2 and the learned Special Government Pleader appearing for the third respondent.

3. The petitioner, who is working as Sub-Inspector of Police, All Women Police Station, Palayamkottai has filed the writ petition against Mr.S.Soundararajan, Judicial Magistrate, Nanguneri, raising certain allegations against the Magistrate, that he had scolded the petitioner in connection with her official duty relating to a criminal case on the



file of the said Court. Had there been any such occurrence, degrading the dignity of the petitioner by the Judicial Magistrate, the petitioner could have given her representation to the Chief Judicial Magistrate or the District and Sessions Judge, through proper channel, in the manner known to law. However, it is seen that the petitioner has averred in the writ petition that she had sent a written representation, dated 09.07.2014 to the Chief Judicial Magistrate, Tirunelveli and the District Superintendent of Police, Tirunelveli by post. Another letter addressed by the petitioner, dated 14.07.2014 was sent to the Registrar (Judicial), Madurai Bench of the Madras High Court, wherein the petitioner had asked the Registrar (Judicial), Madurai Bench of Madras High Court, to take appropriate action against the Judicial Magistrate. Another representation in the form of a letter, dated 15.07.2014 was also addressed by the petitioner to the third respondent, Superintendent of Police, Tirunelveli District. For sending the said representations, the petitioner has filed xerox copy of the alleged complaint and postal acknowledgements.

4. Had there been any occurrence as alleged by the petitioner, she could have submitted the complaint directly to the concerned Chief Judicial Magistrate through the Superintendent of Police, under whom she is working as Sub-Inspector of Police. Simply sending a letter to the Chief Judicial Magistrate by registered post would not be proper and that would lead to the presumption of indiscipline in the administration of police Department as well as in the judiciary. Straight away the petitioner has filed the writ petition, raising certain allegations against the Judicial Magistrate, to take action based on her self-serving averments made in the alleged complaint, even without impleading him as party in the writ petition.

5. It is not known as to why the petitioner has not approached the Chief Judicial Magistrate through the Superintendent of Police, Tirunelveli, the third respondent herein. Straight away the petitioner cannot file the writ petition, invoking Article 226 of the Constitution of India, raising certain allegation against a Judicial Officer, based on her own self-serving statement. We are of the view that such writ petition would not be legally maintainable and further, admitting such writ petition, based on the self-serving statement of the individual would encourage indiscipline in the uniformed service of Police Department and the judiciary. The petitioner herein by sending a representation by way of registered post to the Chief Judicial Magistrate, raising certain allegations against the Magistrate, has subsequently filed this writ petition, however, there is no prima facie materials, to support the statement of the petitioner. Based on mere allegations, having sent a complaint by post, the petitioner cannot invoke the writ jurisdiction of this Court, as it could be possible for publicity or to tarnish the image of the Judicial officer, by a subordinate police official.

6. We make it clear that while filing these type of writ petition, it is also the duty cast upon the Advocate, who file the writ petition, to verify whether there is any prima facie material available to maintain the writ petition. Only based on self-serving averments made by a subordinate police official, without exhausting proper alternate



remedy, filing such petition would affect the dignity and respect of the Institution. It is well settled that no one is above law, however, based on certain bald allegation, the petitioner cannot make out a case, by way of writ petition, either against the Judicial Magistrate or against her superior officer. We are of the view that directly filing the writ petition, making some allegation, self-serving in nature by a police official against a Judicial Officer or against her superior officer, without availing proper alternate remedy could be construed only as an abuse of process of law and the Court, hence, the writ petition is liable to be dismissed, as not maintainable. We expect that the petitioner and the counsel for the petitioner should avoid this type of improper and unhealthy practice in future and with the expectation, cost is not imposed against the petitioner, for abusing the process of this Court.

7. In the result, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

1. The Registrar General
Madras High Court, Chennai.
2. The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai - 625 023.
3. The Superintendent of Police
Tirunelveli District.

+1cc to M/s.D.Venkatesh, Advocate SR.No.9515

W.P (MD) No.2609 of 2015
26.02.2015

nbj

PA/IV/18.06.2015/3P/5C