



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P (MD) No.6922 of 2015

WEB COPY

S.Sundara Moorthy

...Petitioner

Vs.

1.The Principal Secretary,
Home Department, St.George Fort,
Chennai.

2.The Director General of Police,
Chennai.

3.The Inspector General of Police,
South Zone, Madurai.

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

5.The Inspector of Police,
Anti-Land Grabbing Special Cell,
Theni District.

...Respondents

Prayer: Writ Petition filed has been filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus or any other appropriate writ or order to direction in the nature of a writ calling for the records relating to the impugned closure report issued by the fifth respondent dated 27.08.2014 and quash the same as illegal and consequentially directing the fifth respondent to register the complaint dated 13.11.2013 perferred by the petitioner following the directions and guidelines issued by the Hon'ble Supreme Court's Constitution Bench in Lalitha Kumari Vs.Government of UP case reported in 2013(6) CTC 353 and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.T.Chandrasekar

For Respondents : Mr.R.Karthikeyan

Addl.Government Pleader

O R D E R

The petitioner is the complainant. In pursuant to lodging of the complaint dated 13.11.2013 before the fifth respondent police, the petitioner filed a petition in Crl.O.P.No.13709 of 2014 before this Court, seeking a direction for registration. This Court, under orders dated 23.07.2014, has held as follows:

"Though the petition has been filed seeking a direction to register the case, the learned Government Advocate (Crl.side) would submit that the enquiry is pending, which fact is also admitted by the learned counsel for the



2. Taking into considering the complaint was filed as early as on 13.11.2014, the second respondent police is directed to complete the enquiry and act in accordance

with law, within a period of three weeks from the date of receipt of a copy of this order. The petitioner is also directed to co-operate with the respondent in the enquiry.

3. With the above directions, this Criminal Original Petition is closed"

2. Thereafter, investigation was done and it was held in the closure report dated 27.08.2014 that in view of the nature of the complaint coupled with the fact that there is a civil suit pending, the respondents cannot proceed further. Challenging the closure order dated 27.08.2014, this writ petition has been filed.

3. The learned counsel for the petitioner submitted that the complaint discloses cognizable offence and the fifth respondent closed the complaint ignoring the directions issued by this Court in CrI.O.P.No.13709 of 2014 and without following due process of law. As per the direction of this Court, the fifth respondent ought to have filed FIR on the basis of the complaint given by the petitioner, which would make cognizable offence.

4. This Court is afraid the said contention cannot be a factor to challenge the order impugned in this writ petition. In the impugned order, it is stated that after completion of investigation, the complaint was closed. This Court passed an order in CrI.O.P. No.13709 of 2014 only for registration of FIR. The Hon'ble Supreme Court does not say that before registration of FIR preliminary enquiry need not be conducted. The Hon'ble Supreme Court also stipulated the time limit for conducting preliminary enquiry.

5. In the present case, the order impugned is a subsequent development to the order passed by this Court, which merely deals with the registration of the complaint. Further, this Court has merely directed the second respondent therein to complete the enquiry in accordance with law, which was duly done. Therefore, the remedy open to the petitioner is to approach the jurisdictional Magistrate. Further, Article 226 of the Constitution of India only provides for a relief by exercising extraordinary and discretionary power which is not to be exercised when there is an alternative remedy before a jurisdictional forum.

6. Hence, this petition is dismissed giving liberty to the petitioner to approach the jurisdictional Magistrate for the appropriate relief. No costs.

Sd/-

Assistant Registrar(Per Admn)

/True copy/

Sub Assistant Registrar



To,

- 1.The Principal Secretary,Home Department,St.George Fort,Chennai.
- 2.The Director General of Police,Chennai.
- 3.The Inspector General of Police,South Zone, Madurai.
- 4.The Superintendent of Police,Theni, Theni District.
- 5.The Inspector of Police,Anti-Land Grabbing Special Cell,Theni District.
- 6.The Additional Public Prosecutor, Madurai Bench of Madras High Court,
Madurai.

W.P (MD) No.6922 of 2015
28.04.2015

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