

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 15.07.2016

DELIVERED ON: 26.07.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

W.P. No.24278 of 2016 and W.M.P. No.20752 of 2016

S. Arunagiri Petitioner-in-person

vs.

1 The Additional Director General of Police (Law & Order)
Government of Tamil Nadu
Chennai

2 The Superintendent of Police, Thanjavur

3 The Superintendent of Police, Ariyalur

4 Selvaraj
Deputy Superintendent of Police
Papanasam, Thanjavur District

5 Poongothai
Sub-Inspector of Police
All Women Police Station
Papanasam, Thanjavur

6 Jagatheesan
Sub-Inspector of Police
Keelapalur Police Station
Ariyalur District

7 Shobha

8 L. Jestin Chellakumar Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records and quash the reports of the enquiry dated 07.07.2015 and 22.08.2015 in Na.Ka.No.G-1/14437/2015 issued by the second respondent and consequently, direct the first respondent to conduct fair enquiry on the petitioner's complaints dated 07.04.2015 and 18.11.2015 and the High Court order dated

11.06.2015 together against the respondents 4 to 6 and file the action taken report before the Hon'ble High Court. within a time frame.

For petitioner: Dr. S. Arunagiri - Party-in-person

For RR 1 to 3 : Mr.C.Emalias,
Additional Public Prosecutor

ORDER

This writ petition has been filed to quash the enquiry reports dated 07.07.2015 and 22.08.2015 of the second respondent and for a direction to the first respondent to conduct a fair enquiry on the petitioner's complaints dated 07.04.2015 and 18.11.2015 and the High Court order dated 11.06.2015 together, against the respondents 4 to 6 and file action taken report.

2 Heard the petitioner/party-in-person and Mr. C. Emalias, learned Additional Public Prosecutor, appearing for the respondents 1 to 3.

3 For the sake of convenience, the parties will be referred to by their name.

4 Arunagiri (the petitioner herein) got married to Shobha (the seventh respondent herein) on 23.02.2004 and a son, Puthin, was born to them on 30.05.2005. On account of matrimonial discord, Arunagiri and Shobha got estranged and Shobha filed M.C. No.14 of 2014 before the Judicial Magistrate Court No.II, Thanjavur, for various reliefs under the Protection of Women from Domestic Violence Act.

5 The Judicial Magistrate No.II, Thanjavur, appears to have passed an order on 31.03.2015 in M.C. No.14 of 2014, pursuant to which, Shobha, with the help of police, took custody of her son Puthin, aggrieved by which Arunagiri filed W.P. (MD) No.5665 of 2015 for a direction to the Superintendent of Police, Thanjavur District, to take departmental action against the Deputy Superintendent of Police, Papanasam and Poongothai, Sub-Inspector of Police, All Women Police Station, Papanasam, for certain alleged misdeeds at the time when Puthin was secured. Arunagiri also filed CrI.O.P.(MD) No.7154 of 2015 for transfer of M.C. No.14 of 2014 from the file of the Judicial Magistrate Court No.II, Thanjavur, to the file of the Judicial Magistrate Court No.I, Madurai.

6 This Court heard W.P. (MD) No.5665 of 2015 and Crl.O.P. (MD) No.7154 of 2015 and by a common order, transferred M.C. No.14 of 2014 from the file of the Judicial Magistrate Court No.II, Thanjavur, to the file of the Judicial Magistrate, Kumbakonam.

7 As regards the prayer for a direction to the Superintendent of Police, Thanjavur District, to conduct enquiry, this Court acceded to the request and directed the Superintendent of Police, Thanjavur District, to conduct an enquiry on the alleged incident and complete the same within three months.

8 Even in the typed set of papers filed in the present writ petition, Arunagiri has enclosed a report dated 07.07.2015 that has been sent by the Superintendent of Police, Thanjavur District to the Director General of Police, Tamil Nadu, wherein, the entire facts and circumstances have been narrated.

9 On a reading of the report, it is seen that the Judicial Magistrate No.II, Thanjavur has passed an order on 08.08.2014 in M.C.No.14 of 2014 directing Arunagiri to hand over the custody of Puthin to Shobha, despite which, Arunagiri did not hand over custody of Puthin to Shobha. When Shobha approached Arunagiri seeking custody of Puthin based on the order of the Court, the latter appears to have abused the former. Therefore, Shobha lodged a complaint on 30.03.2015 to the Deputy Superintendent of Police, Papanasam Sub Division, praying for implementation of the order passed by the Magistrate and further alleging that Arunagiri is threatening and abusing her despite the Court order. The Deputy Superintendent of Police, Papanasam Sub Division directed Poongothai, Sub Inspector of Police, All Women Police Station, to enquire into the matter and take necessary action. During enquiry, it was found that Arunagiri was keeping Puthin in his house at Poyyur Village in Ariyalur District, which was within the jurisdiction of Keezhappalur Police Station. Therefore, Poongothai sought the help of Keezhappalur police and along with one Jagatheesan, Sub-Inspector of Police, Keezhappalur Police Station, went to the residence of Arunagiri and asked him to hand over the child to Shobha.

10 During enquiry, it appears that Arunagiri, his sister's husband and another relative, came with Puthin to All Women Police Station, Papanasam and there Puthin stated that he does not want to go to Arunagiri. Therefore, Poongothai, Sub-Inspector of Police, All Women Police Station, kept Puthin in the Child Welfare Home on 30.03.2015 and on 31.03.2015, the Child Welfare Committee was informed and Puthin told the member of the Child Welfare Committee that he does not want to go to

his father, Arunagiri. Therefore, the child was produced before the Judicial Magistrate Court No.II, Thanjavur. Shobha moved an application for custody and accordingly, custody of Puthin was handed over to Shobha. In compliance of the order dated 11.06.2015 passed by this Court in W.P.(MD) No.5665 of 2015 and Crl.O.P. (MD) No.7154 of 2015, as stated above, the Superintendent of Police once again conducted enquiry and in paragraph no.2 of the enquiry report dated 22.08.2015, it is stated as under:

"2 My enquiry reveals that Tmt. Poongothai, Women SI of Police went to Ariyalur brought the said Arunagiri and his Puthin in connection with petition submitted by his wife Tmt. Shoba in AWPS, Papanasam in Petition No.75/2015 dated 30.03.2015. On that night with an intention to avoid complaint she made arrangement to keep the above said Puthin in Child Welfare Home, Thanjavur. Next day morning he was produced before the JM Court, Thanjavur and the learned JM ordered in M.C. No.14/2014-CMP No.51/2014 dated 31.03.2015, to hand over the above boy to Tmt. Shoba mother of the child. In this incident, the child was not forcefully taken from the custody of the petitioner, as contended by the petitioner. The Dy. Superintendent of Police, Thanjavur Rural has not committed any mischief as stated by petitioner. As such, there is no need to take any disciplinary action against the said officers."

11 Therefore, this Court finds that the Superintendent of Police has complied with the order dated 11.06.2015 passed by this Court in W.P.(MD) No.5665 of 2015 and Crl.O.P. (MD) No.7154 of 2015. Not satisfied with the order passed by the Superintendent of Police, Arunagiri has given a representation dated 16.11.2015 to the Additional Director General of Police for taking appropriate action against Poongothai and Deputy Superintendent of Police, Papanasam Sub-Division and has now come up with the present writ petition for the relief, as aforestated.

12 Just because the findings of the Enquiry Officer are not palatable to Arunagiri, that cannot be a reason to set aside the reports of the Enquiry Officer impugned in this writ petition and direct the Additional Director General of Police to conduct a fresh enquiry on the petitioner's complaints dated 07.04.2015 and 18.11.2015. Thus, this Court does not find any irregularity in the enquiry reports dated 07.07.2015 and 22.08.2015 of the Superintendent of Police, Thanjavur and this matter has to be put to rest, leaving Arunagiri and Shobha to work out their remedies before the matrimonial courts.

13 After hearing Arunagiri on 15.07.2016, this Court reserved orders. Thereafter, on 18.07.2016, Arunagiri submitted certain documents which were also perused by this Court. The documents submitted by Arunagiri do not, in any, improve upon his case.

In the result, this writ petition is dismissed as being devoid of merits. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1 The Additional Director General of Police (Law & Order)
Government of Tamil Nadu
Chennai.
- 2 The Judicial Magistrate II,
Thanjavur.
- 3 The Superintendent of Police,
Thanjavur
- 4 The Superintendent of Police,
Ariyalur.

+2cc to Mr.S.Arunagiri, Party in person, Sr.42031

W.P. No.24278 of 2016

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