



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02..12..2016

Coram:

THE HON'BLE MR. SANJAY KISHAN KAUL, CHIEF JUSTICE

and

THE HON'BLE MR. JUSTICE S.NAGAMUTHU

Writ Appeal (MD) No.989 of 2015

C.Saraswathi

... Appellant

-Versus-

1.The Superintendent of Police,
Kanyakumari District, Nagercoil.

2.The Administrative Officer (General),
Office of the Superintendent of Police,
Head - Complaints Committee for Preventing
Sexual Harassment of Working Women,
District Police Office,
Nagercoil.

3.Thiru.Thanislas,
Retired Administrative Officer (Admin) to
SP, Kanyakumari District,
Nasamony Nagar, Opp. Ranithottamm Depot,
Near CSI Churt, Nagercoil,
Kanyakumari District 629 004. .. Respondents

Writ Appeal filed under Clause 15 of The Letters Patent
against the order dated 15.06.2015 in W.P.(MD) No.9569 of 2015.

Prayer in WP(MD). 9569/ 2015 :

Writ Petition is filed under Article 226 of the Constitution
of India, praying this Court To issue a writ of Certiorari to call
for the records relating to the impugned report dated 17.8.2013 in
Na.Ka.No.C1/40130/2013 issued by the 2nd respondent and quash the
same.

For Appellant

: Mr.T.Antony Arul Raj

For Respondent

: Mr.D.Muruganandham, AGP

for R1

No Appearance for R2 and R3

JUDGEMENT

[Judgement of the Court was made by S.NAGAMUTHU.J.,]

Challenge in this writ appeal is to the order of a learned
single Judge of this court in W.P.(MD) No.9569 of 2015 dated
15.06.2015 wherein, the learned Single Judge declined to interfere
with the report of the 2nd respondent in his proceedings dated

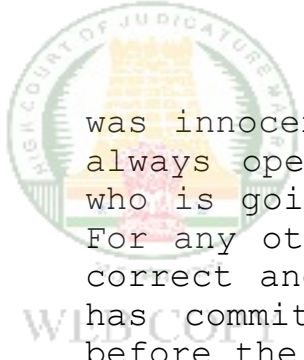


17.08.2013 in Na.Ka.No.C1/40130/2013. The report came to be submitted by the 2nd respondent in the following circumstances.

2. The appellant was working as a Selection Grade Assistant in the Police Department. The 3rd respondent was then working as Administrative Officer at the Office of the Superintendent of Police in Kanyakumari District. The appellant was working under him. On 12.08.2013, the appellant made a complaint to the 1st respondent alleging that she was sexually harassed by the 3rd respondent at work spot. Acting on the said complaint, the 1st respondent constituted a Committee as directed by the Hon'ble Supreme Court in Vishaka and others Vs. State of Rajasthan reported in AIR 1997 SC 3011 to hold an inquiry into the allegations and to submit a report. The Committee went into the allegations in detail during which it examined as many as 72 witnesses, but, none favoured with the appellant. Finally, the Committee submitted a report to the 1st respondent dated 17.08.2013 in Na.Ka.No.C1/40130/2013 reporting that the allegations made against the 3rd respondent by the appellant were all false. The said report was accepted by the 1st respondent. On the allegations that the appellant had made such allegations against the 3rd respondent, the 1st respondent issued a charge memorandum to the appellant as per the Service Rules on 21.11.2013. The appellant has been facing the charges. She was also transferred to some other place. The 3rd respondent retired from service in the month of April 2015. Thereafter, the petitioner filed W.P.(MD) No.9569 of 2015 before this court seeking to quash the above said report of the committee dated 17.08.2013. The learned single Judge dismissed the writ petition. As against the same, the appellant is before this court with the present writ appeal.

3. We have heard the learned counsel for the appellant and the learned counsel appearing for the respondents 1 and 2 and we have also perused the records carefully.

4. The learned counsel for the appellant would submit that the order of the learned single Judge is devoid of merits inasmuch as the learned single Judge has not considered the contentions of the appellant that all the 72 witnesses were examined by the Committee behind her back. In other words, according to the appellant, there was no opportunity provided to her to cross examine those witnesses. This contention of the learned counsel for the appellant deserves only to be rejected inasmuch as the inquiry held by the Committee was to find out the truth and it cannot be equated to that of a criminal trial so as to afford opportunity of cross examination. The learned counsel for the appellant would further submit that since the report was the basis for the charges against her, she should have been afforded opportunity. In our considered view, as rightly held by the learned single Judge, if it is the case of the appellant that she



was innocent and the allegations made by her were all true, it is always open to her to prove the same before the inquiry officer who is going to hold inquiry into the charges framed against her. For any other reason, if she finds that the inquiry report is not correct and she was really sexually abused and the 3rd respondent has committed any offence, the remedy for her is always open before the criminal court.

5. Above all, as rightly held by the learned single Judge, though the report is dated 17.08.2013 and that the charge memorandum was issued on 21.11.2013 based on the above inquiry report, she kept silence and she had chosen to file the writ petition only in the year 2015, that is, after 2 years. The only explanation offered by the appellant for this laches on her part is that she was afraid of the 3rd respondent because she continued to be in service. This contention has been rejected by the learned single Judge stating that when the appellant was so courageous to make a complaint while he was in service, it is difficult to believe that she had lost her courage in the same year when the report went against her. Thus, in our considered view, there is absolutely no merit in this writ appeal and the order of the learned single Judge, which is well-considered order, does not require interference at the hands of this court.

6. In the result, the Writ Appeal fails and the same is accordingly dismissed. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

2.The Administrative Officer (General),
Office of the Superintendent of Police,
Head - Complaints Committee for Preventing
Sexual Harassment of Working Women,
District Police Office,
Nagercoil.

+1cc to Mr.T.Antony Arul Raj, Advocate Sr.No.79891

Writ Appeal (MD) 989 of 2015
02..12..2016