



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2016

CORAM:

THE HONOURABLE DR. JUSTICE S.VIMALA

CrI.O.P.(MD).No.9130 of 2016

WEB COPY

Kersom Kingsley Selva

..Petitioner/Accused

Vs.

1.The Superintendent of Police,
Thoothukudi District.

2.The Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.

(Crime No.383 of 2012)

..Respondents/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying for a direction to the learned Judicial Magistrate, Sathankulam, Thoothukudi District to dispose of C.C.No.75/2013 pending on his file within a time stipulated by this Court.

For Petitioner	: Mr.S.M.Lingeswaran
For respondents	: Mr.A.P.Balasubramani, Government Advocate (Criminal side)

ORDER

"Thanks to his salary, an employee is free to eat whatever, wherever. However, because of his job, he is not free to eat whenever." - Mokokoma Mokhonoana

Here is the case where the accused has started the dispute demanding payment of salary in order to lead a free and dignified life and thereby has landed in trouble.

2. This petition has been filed by the accused seeking a direction to the learned Judicial Magistrate, Sathankulam, Tuticorin District to dispose of the case in C.C.No.75 of 2013 within a stipulated time.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (CrI. Side) for the respondents.

4. It is stated in the petition that based on the complaint given by the Headmaster of TDTA Higher Secondary School, Anandapuram, Tuticorin District, a case has been registered against the petitioner by the second respondent Police in Crime No.383 of 2012 under Sections 294(b) and 506(i) IPC.

4.1. The sum and substance of the complaint is that the petitioner/accused staged a protest in the school premises on account of non-payment of salary and thereby obstructed



functioning of the school. When a videographer came there to take videograph of the protest, the accused threatened the videographer and also abused him in filthy language.

4.2. The 2nd respondent has filed a charge sheet in respect of the occurrence and has been taken on file in C.C.No.75 of 2013. This charge sheet has been filed on 07.05.2013.

5. From the perusal of the "B" diary extract, it is evident that from 10.07.2013 till 13.04.2016 for 16 hearings, the only entry is "summon not served. Issue fresh summons to accused". But, strangely, the accused has filed this petition, stating that because of frequent hearings, he has to attend the Court by availing leave and suffering loss of pay.

6. Be that as it may, the fact remains that there is no progress in the case for three years. When the Court has ordered fresh summons to the accused, it is not known whether summons have been issued at all.

6.1. In this petition, it is stated that though the school in which he is working is a reputed institution, he has not been paid his salary. Salaries are generally paid on the last working day of the month. To lift the working poor out of poverty, Payment of Minimum Wages Act was brought into force. The employees have a right to remuneration according to the cadre and post in which they are employed. But, no employer has the right to decline payment of salary, which may amount to right to livelihood, where salary is the only source of income. When such sort of grievance is expressed, despite the inconsistent statement made before the Court in respect of reasons for pendency, this Court directs the learned Judicial Magistrate, Sathankulam, Tuticorin District to dispose of the case within a period of two months from the date of receipt of a copy of this order.

7. Undertaking given by the accused that he will continue to appear and cooperate for the speedy disposal of the case is recorded. Accused is directed to appear before the Court on 20.07.2016 without expecting any summons from the Trial Court.

This Criminal Original Petition is accordingly disposed of.

Sd/-

Assistant Registrar(Records)

/True copy/

Sub Assistant Registrar(CS)

To:

1.The Judicial Magistrate,
Sathankulam, Thoothukudi District.

<https://hccs.courtservice.gov.in/>
2.The Superintendent of Police,
Thoothukudi District.



3.The Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.M.Lingeshwaran, Advocate in SR.30174

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14.06.2016

gcg/ar

PBK/NGM-MP/SAR-II 15.07.2016 ::3p-6c:(IT)