



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2016

CORAM:

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) .No.1892 of 2011
and
M.P. (MD) .No.1 of 2011

B.Ravishankar

... Petitioner

Vs

1.The State Human Rights Commission,
Tamil Nadu, rep.by its Member,
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai-600 028.

2.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

3.Mr.Barnard Xavier,
Sub-Inspector of Police,
Uthumalai Police Station,
Tirunelveli District.

... Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 15.04.2010 in case No.2683/2010 on the file of the first respondent commission and quash the same, consequently directing the first respondent commission to decide the case on merits under the provisions of the protection of Human Rights Act,1993.

For Petitioner :Mr.AR.Jeya Rhuthran

For Respondents :Mr.AK.Baskara pandiyan
Special Government Pleader
for R1 & R2

: Mr.B.TamilNidhi, for R3

ORDER

[Order of the Court was made by **M. SATHYANARAYANAN, J.**]

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By consent, this Writ Petition is taken up for final disposal.

2. The petitioner claims that he is a native of Annamalai Pudur Village and eking out his livelihood by running a printing press at Chennai. It is the case of the petitioner that he came to attend temple festival during the first week of November 2009 and on 04.11.2009, while, he was on his way to temple, he was waylaid and attacked with deadly weapons by one Bharathiraja and in this regard, he promptly lodged a compliant on the file of Uthumalai Police Station, Tirunelveli District and based on which, a First Information Report in Crime No.283 of 2009 was registered under Sections 147, 341, 323, 506(i) IPC. It is the further case of the petitioner since the investigation has not been done properly, he has filed CrI.O.P.(MD).No.2544/2010 and pursuant to the orders passed by this Court, dated 26.03.2010, this case was transferred to the Inspector of Police, Alangulam, who has filed a final report charging six accused for the commission of offences under Sections 147, 341, 294(b), 323, 325 and 506(ii) IPC in C.No.392 of 2010 dated 15.10.2010 on the file of the learned Judicial Magistrate, Tenkasi and the same is pending.

3. Learned Counsel for the petitioner would submit that though the petitioner has approached the Human Rights Commission as regards the infirmities and deficiencies on the part of the third respondent in conducting the investigation, it has been given a disposal through a cryptic order and therefore, the petitioner is constrained to approach this Court by filing this Writ Petition for quashing the said order.

4. Learned Counsel for the petitioner would submit that the petitioner has approached the jurisdictional police without any loss of time and though the petitioner was brutally attacked by the accused, the First Information Report came to be registered belatedly and the third respondent registered the case only for minor offences and therefore, in all fairness, the first respondent ought to have taken the compliant on file and given a disposal, in accordance with law and prays for appropriate orders.

5. *Per contra*, learned Counsel appearing on behalf of the respondents 1 and 2 has drawn the attention of this Court through the counter affidavit filed by them and would submit that in pursuant to the order passed by this Court, dated 26.3.2010, the case has been transferred; fair and proper enquiry has been conducted; final report has been filed and the same has also been taken on file by the learned Judicial Magistrate,



Tenkasi in C.C.No.392/2010 on 15.10.2010 and as per the jurisdictional Magistrate, since A.5 was absconding, the case has been split up and given a new number, namely, C.C.No.60 of 2011 and it is posted for trial on 30.11.2016 and prays for dismissal of this Writ Petition.

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6. Learned Counsel for the third respondent would invite the attention of this Court through his counter affidavit that a fair and proper enquiry has been conducted and trial is pending before the concerned jurisdictional Court and the points urged by the petitioner can be adjudicated during the course of the trial and not by means of compliant and prays for dismissal of this Writ Petition.

7. This Court has paid its best attention and also perused the materials available on record.

8. The grievance of the petitioner is that though a compliant was lodged promptly, the case was registered by the third respondent police only for minor offences, that too, belatedly. It is a well settled position of law that if the petitioner makes out a case under Section 307 IPC, the trial Court is having power and as per Section 216 of Criminal Procedure Code, it can alter or amend the charges before the pronouncement of the judgment. Therefore, no prejudice would be caused to the petitioner. Similarly, insofar as belated filing of First Information Report is concerned, it is for the investigating officer to explain the delay during the course of trial. Therefore, the second request also cannot be acceded to.

9. In the considered opinion of this Court, the first respondent has taken into consideration the relevant legal aspects and other aspects of the matter and rightly arrived at the decision to reject the compliant of the petitioner by granting liberty to the petitioner to work out his remedy before the Criminal Court.

10. This Court finds no merit or infirmity in the order rejecting the compliant of the petitioner by the first respondent. Therefore, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar



To

1.The Member, State Human Rights Commission,
Tamil Nadu,
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai-600 028.

2.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

+1 cc to M/s.B.Tamil Nidhi, Advocate in SR.No. 68865
+1 cc to The Special Government Pleader in SR.No. 68839

SSM

CSL/SS-2/30.11.2016: 4P/5C

W.P (MD) .No.1892 of 2011
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