

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.6283 of 2017

K.Kannamani

... Petitioner

Vs

1.The Director General of Police,
Beach Road,
Chennai.

2.The Inspector General of Police,
T.V.S.Tolgate,
Trichy - 20.

3.The District Collector,
Ariyalur District,
Ariyalur.

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

5.Mr.Jebaraj,
Inspector of Police,
Sendurai Police Station,
Sendurai.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the 3rd respondent to conduct an enquiry against the 5th respondent by the 4th respondent based on the

petitioner's representation dated 04.05.2016 within a time limit may be fixed by this Hon'ble Court.

For Petitioner : Mr.K.Murugesan

For Respondents : Mr.S.Gunasekaran
Additional Government Pleader
For R1 to R4

ORDER

The relief sought for in this writ petition is to direct the third respondent to conduct an enquiry against the fifth respondent, based on the petitioner's representation dated 04.05.2016 within a time limit.

2. The learned counsel appearing for the writ petitioner made a submission that due to some family enmity between the petitioner and one Kaviyarasu, in relation to civil dispute, the writ petitioner and his wife lodged a complaint before the fifth respondent police. The fifth respondent failed to take any action on the complaint lodged by the petitioner on 24.03.2016. However, the fifth respondent registered a case against the petitioner based on the complaint given by the accused in Crime No.51 of 2016, dated 24.3.2016 under Sections 294(b), 324, 506(ii) IPC. The writ petitioner as well as his cousin was arrested and remanded to judicial custody, and thereafter released on bail.

3. The learned counsel for the writ petitioner made a submission that the fifth respondent demanded bribe of Rs.10,000/- for not arresting the petitioner's wife viz., Smt.Indira, in connection with Crime No.51 of 2016. However, the writ petitioner refused to give any bribe to the fifth respondent and thereafter, approached this Court by filing a petition in CrI.OP.No.8777 of 2016 and got anticipatory bail and the same was executed before the learned Judicial Magistrate, Ariyalur. On 01.05.2016, the fifth respondent arrested the writ petitioner's wife during the early morning. Though the writ petitioner informed that his wife got anticipatory bail in Crime No.51 of 2016, but the fifth respondent threatened the writ petitioner by stating that if he gets anticipatory bail, then he will register a new case. Accordingly, the fifth respondent registered another case in Crime No.99 of 2016 on 01.05.2016 under Sections 294(b), 323, 506(i) IPC against the writ petitioner's wife and the wife of the writ petitioner was arrested at 4.00 a.m. by the fifth respondent, not adhering the legal principles laid down by the Supreme Court with regard to the arrest of a woman.

4. The allegation set out in the affidavit is that the fifth respondent did not provide even water to the writ petitioner's wife and thereafter, the wife of the writ petitioner was produced before the learned Judicial

Magistrate, Ariyalur and remanded to judicial custody. Subsequently, the wife of the writ petitioner was granted anticipatory bail. The allegation set out in the writ petition is that the fifth respondent Mr.Jebaraj registered a false case, since the writ petitioner has refused to give demanded bribe of Rs.10,000/-.

5. As the allegations set out in the affidavit by the writ petitioner are serious in nature and in relation to the corruption charges, this Court has directed the Deputy Superintendent of Police, to conduct an enquiry on the representation submitted by the writ petitioner. Accordingly, the Deputy Superintendent Police, Ariyalur Sub Division conducted a detailed enquiry on the representation submitted by the writ petitioner to the Superintendent of Police, Ariyalur on 04.05.2016. The details of the enquiry conducted by the Deputy Superintendent Police, Ariyalur Sub Division was filed by way of a report on 21.08.2017 and the statements of the individual witnesses are obtained and the Deputy Superintendent Police, Ariyalur examined 26 witnesses and obtained their respective statements. Based on the statements given by the said 26 witnesses, the report dated 21.08.2017 is filed by the Deputy Superintendent of Police, Ariyalur. The relevant portion of the same is extracted hereunder :

“.....

3. It is submitted that as per the direction of this Hon'ble Court I called for files related to petitioner from the Sendurai Police Station and conducted enquiry with petitioner herein, petitioner's wife and ten witnesses of their side, defacto complainant in Crime No.99 of 2016, five general public in the Ponparappi Village, three women Police Constables of Armed Reserve Police who were on duty on 01.05.2016 at Sendurai Police Station and two Women Police personnel and three men Police attached with Sendurai Police Station and obtained their statements. The 5th respondent who was serving as Inspector of Police, Sendurai Police Station has been promoted as Deputy Superintendent and post at Thiruthuraipoondi, Thiruvarur District. Hence, the Superintendent of Police, Thiruvarur District has been requested to direct Mr. Jebaraj, the 5th respondent to appear for enquiry at my Camp Office at Ariyalur District vide my letter dated 06.08.2017.

4. It is submitted that the Police records reveal that the Sendurai Police has received information about the clash on 24.03.2016 between the two families of Mr. Kannamani and Mr. Kaviyarasu who are brothers and born for same parents. Mr. Kaviyarasu has lodged a complaint before the Sendurai Police that he and his daughter Priyanka were attacked by

Mr.Kannamani and his brother in law Krishnamoorthy, with wooden log, pipe and caused injuries and threatened their life due to land dispute and prayed for necessary action against the accused. Hence, the Police has taken the complaint on its file in Cr.No.51 of 2016 U/s.294(b), 324 and 506(ii) of IPC after took up the investigation on 25.03.2016. Subsequently, it has altered the Sec.324 to 326 after obtaining wound certificate. The Special Sub-Inspector of Police, Sendurai Police Station made spot visit, prepared observation mahazar, sketch and enquired the witnesses and recorded their statements. Subsequent to the investigation the accused namely Mr.Kannamani and Krishnamoorthy, both are residing at Keelatheru, Ponparappi were arrested and remanded to judicial custody. The petitioner's wife Tmt.Indira was arraigned as one of the accused based on the witness statement. Meanwhile, she has preferred Crl.OP.No.8777 of 2016 before this Hon'ble High Court and this Court has granted conditional bail on 17.09.2016. After completion of investigation, the 5th respondent has laid charge sheet on 17.09.2016 before the Judicial Magistrate Court, Ariyalur and it was taken on file in C.C.No.50 of 2016 on 04.01.2017.

5.The records of Police further reveal that on 01.05.2016, around 11.00 a.m., the Sendurai Police has received a complaint from Tmt.Chithra, wife of

Kaviyarasu that she was attacked by Tmt.Indira, W/o. Kannamani and scolded with filthy language and threaten to life, when she along with her daughter visited her incomplete house. Based on the complaint, a case was registered in Crime No.99/2016, punishable u/s. 294(b), 323, 506(ii) of IPC and took up for investigation by the 5th respondent since it was second incident between the same parties. The Inspector of Police, Sendurai Police Station rushed to the spot and made observation mahazer, sketch, enquired the witnesses and recorded their statements. On 01.05.2016 at about 14.30 hours, the accused Tmt.Indira, wife of Kannamani, Keelatheru, Ponparappai was arrested with the help of Women Head Constable 396 Tmt.Gomathi and around 15.30 brought to station. After preparation of station records, she was remanded to judicial custody with proper escort by Women Police Constable 266 Tmt.Rajeswari and 868 Selvi.Sathya. Charge sheet was already filed in C.C.No.284 of 2016 on 13.07.2016 and the same on pending trial.

6. It is submitted that out of 26 witnesses enquired, 12 witnesses including the petitioner herein were the petitioner side witness, 1 was defacto complainant who made complaint against petitioner's wife Tmt.Indira, 5 general public of Ponparappi Village and 8 Police personnel on duty on 01.05.2016 at the Sendurai Police Station.

7. It is humbly submitted that the petitioner has stated, his wife Tmt. Indira was taken on Police station when he was away from home, by the 5th respondent along with four Women Police and he received phone call around 6.00 a.m., informing that his wife was arrested and ready to release if he give Rs.10,000/- failing which he too would be arrested; that he absconded fearing arrest; that her wife was produced before the Court by 6.30 p.m.,; that his wife was taken to Police Station by 4.00 a.m. and booked with case as she quarrelled by 9.00 a.m., against the truth; that he can bring the persons for enquiry who saw the Police pickup his wife from his house in early hours. As per his choice 11 witnesses including his wife were enquired, all of them are his blood relatives except 2. Out of 8 of his relatives, only 2 has deposed that he saw the Police near the house of petitioner herein at early hours or lifting her into the Jeep. The rest are only hearsay.

8. It is submitted that all the 5 public/witness have stated that Tmt. Indira was arrested by the 5th respondent along with one Women Police from the Bus Stand where she was standing around 2.30 p.m.

9. It is submitted that the Women Police Tmt. Gomathi deposed that she was one who accompanied the 5th respondent while arresting

Tmt.Indira from Ponparappi. The rest of 7 Police personnel participated in the enquiry have narrated their official role from taking Tmt.Indira to the Police custody to remanding her in Judicial Custody by the Hon'ble Magistrate, Ariyalur.

10.It is submitted that the version of 5th respondent, who was working as inspector of Police, Sendurai Police Station and on promotion presently serving as Deputy Superintendent of Police in Thiruthuraipoondi Sub Division, could not be obtained without due permission from the concerned authority, as he is in same cadre of this reporter.

11. It is submitted that the CC.No.50 of 2017 in Cr.No.51 of 2016 on the file of Chief Judicial Magistrate, Ariyalur, wherein the petitioner is 1st accused and his wife Tmt.Indira is 3rd accused, has been posted for accused appearance on 19.08.2017.

12. It is submitted that the C.C.No.284 of 2016 in Crime No.99 of 2016 on the file of Judicial Magistrate, Ariyalur, wherein the petitioner wife Tmt.Indira is the sole accused, has been posted for the appearance of witness 1 to 5 on 12.09.2017.

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6. One witness being the Deputy Superintendent of Police, Ariyalur,

this Court directed the Superintendent of Police, Ariyalur to conduct an enquiry and record the statement. Accordingly, the Additional Deputy Superintendent of Police, Head Quarters, Ariyalur, conducted an enquiry independently and submitted his enquiry report on 08.09.2017 and the details of the enquiry report filed by the Additional Deputy Superintendent of Police, Head Quarters, Ariyalur, is extracted hereunder :

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3. It is submitted that the above said enquiry report was submitted by Deputy Superintendent of Police, Ariyalur sub division. In these circumstances, the 5th respondent then who was serving as Inspector of Police, Sendurai Police Station now has been promoted as Deputy Superintendent of Police at Thiruthuraipoondi, Thiruvarur District. Because of the enquiry officer and the 5th respondent now are the same cadre level officers, when this writ petition coming on 22.08.2017 for orders this Honourable Court has directed that the 4th respondent to cause enquiry and submitted report in this regard by any one of higher level officer than Deputy Superintendent of Police.

4. It is submitted that as per the above said direction of this Hon'ble Court, I called for files related to petitioner from the Sendurai Police Station and conducted personal enquiry with petitioner herein, petitioner's wife and twelve public witnesses of Ponparappi Village, defacto complainant in Crime No.99 of 2016, two women Police

Constables of Armed Reserve Police who were on duty on 01.05.2016 at Sendurai Police Station, two women Police constables and two men constables of Sendurai Police Station and obtained their own written statements. Also the Superintendent of Police, Thiruvarur District has been requested to direct Mr.Jebaraj, the 5th respondent (Now Deputy Superintendent of Police, Thiruthuraipoondi) to appear for enquiry at ADSP Head Quarters Office, Ariyalur District vide my letters dated 02.09.2017 & 05.09.2017. He has not appeared directly in person but he has submitted a report on 07.09.2017 in this regard.

5. It is submitted that the Police records reveal that the Sendurai Police has received information about the clash on 24.03.2016 between the two families of Mr.Kannamani and Mr.Kaviyarasu who are brothers and born for same parents. Mr.Kaviyarasu has lodged a complaint before the Sendurai Police that he and his daughter Priyanka were attacked by Mr.Kannamani and his brother in law Krishnamoorthy, with wooden log, pipe and caused injuries and threatened their life due to land dispute and prayed for necessary action against the accused. Hence, the Police has taken the complaint on its file in Cr.No.51 of 2016 U/s.294(b), 324 and 506(ii) of IPC after took up the investigation on 25.03.2016. Subsequently, IO has altered the Sec.324 to 326 after obtaining wound certificate. The Special Sub-Inspector of Police, Sendurai Police Station has made spot visit,

prepared observation mahazar, sketch and enquired the witnesses and recorded their statements. Subsequent to the investigation the accused namely Mr.Kannamani and Krishnamoorthy, both are residing at Ponparappi village were arrested and remanded on 25.03.2016 for judicial custody. During the investigation, this writ petitioner's wife Tmt.Indira was included as one of the accused based on the witness's statement. Meanwhile, she has preferred for anticipatory bail in Crl.OP.No.8777 of 2016 before this Hon'ble High Court and this Court has granted conditional bail on 20.04.2016. After completion of investigation, the 5th respondent has laid charge sheet on 17.09.2016 before the Judicial Magistrate Court, Ariyalur and it was taken on file in C.C.No.50 of 2017 on 04.01.2017.

6.The Police records further reveal that on 01.05.2016, around 11.00 a.m., the Sendurai Police has received a complaint from one Tmt.Chithra, wife of Kaviyarasu that she was attacked by Tmt.Indira, W/o. Kannamani(this writ petitioner) and scolded with filthy language and threaten to life, when she along with her daughter have visited her house which is under construction on 01.05.2016 at 09.00am. Based on that complaint, a case was registered in Crime No.99/2016, punishable u/s. 294(b), 323, 506(ii) of IPC and took up for investigation by the 5th respondent since it was second incident between the same parties. The Inspector of Police, Sendurai Police Station started investigation made

observation mahazer, sketch, enquired the witnesses and recorded their statements. On 01.05.2016 at about 14.30 hours, the accused Tmt.Indira, wife of Kannamani, Keelatheru, Ponparappai was arrested with the help of Women Head Constable 396 Tmt.Gomathi and around 15.30 brought to station. After preparation of station records, she was remanded to judicial custody with proper escort by Women Police Constable 266 Tmt.Rajeswari and 868 Selvi.Sathya. Charge sheet was filed before the Judicial Magistrate Court, Ariyalur and taken on file on 13.07.2016 in C.C.No.284 of 2016 and the same on pending for trial. It is submitted that out of 22 witnesses, 12 witnesses are public witnesses, 2 witnesses are writ petitioner and his wife, 1 witness Chithra w/o. Kaviyarasu defacto complainant in Cr.No.99/2016 of Sendurai Police Station and other 7 witnesses are Police personnel witnesses.

7.It is humbly submitted that the writ petitioner Kannamani 1st witness has stated in his statement during my enquiry on 04.09.2017 that his wife Tmt.Indira was taken to Police Station on 01.05.2016 at 04.00 hrs when he was inside the bathroom at home, by the 5th respondent. Further he has stated that he went to the Police Station along with Thamilarasan 8th witness herein there the 5th respondent demanded Rs.10,000/- to release his wife. But the Thamilarasam 8th witness herein stated in his statement that he had met wee hours Kannamani with goat at the meat market near bus stand Ponparappi village and he told

Kannamani that why his wife was arrested by Sendurai Police. Kannamani replied that there is no problem at all. The 2nd witness herein Indra stated in her statement that she was arrested by 5th respondent Inspector of Police along with 4 women constables at 04.00 hrs on 01.05.2016. The 3rd witness Mr.Palanivel, 4th witness Mrs.Asothai, 5th witness Mrs.Tamilmani, 6th witness Mr.Selvaraj, 7th witness Visunusankar and 9th witness Pattusamy herein stated in their statements corroborated with 1st and 2nd witness's stand. But there are very much differences and contradictions between them.

8. It is also submitted that the writ petitioner Kannamani 1st witness herein and his wife Indira 2nd witness herein in their statements given by them are contrary to each other. In addition in their statements given on my personal enquiry dated 04.09.2017 they have not stated anything about representation dated 04.05.2016 as stated in 6th paragraph of this writ petition.

9. It is humbly submitted that the writ petitioner 1st witness herein has stated, his wife Tmt.Indira was taken to Police Station when he was inside the bathroom at home, by the 5th respondent along with four Women Police and he received phone call around 06.00 am, informing that his wife was arrested and ready to release if he give Rs.10,000/- failing which he too would be arrested; that he absconded fearing arrest; that her wife was produced

before the Court by 6.30 p.m.; that his wife was taken to Police Station by 4.00 a.m. and booked with case as she quarrelled by 9.00 a.m., against the truth; that he can bring the persons for enquiry who saw the Police pickup his wife from his house in early hours. As per his choice 9 witnesses including his wife were enquired, all of them are his blood relatives except 2. Out of 8 of his relatives, only 2 has deposed that they saw the Police near the house of petitioner herein at early hours or lifting her into the Jeep. The rest are only hearsay.

10.It is submitted that Mr.Ramkumar, Mr.Muruganandham, Mr.Senthilkumar, Mr.Sankar, Mr.Baskar (witnesses 11 to 15 herein) all the 5 public/witness have stated that Tmt.Indira was arrested by the 5th respondent along with one Women Police constable from the Ponparappi Bus Stand where she was standing around 02.30 pm on 01.05.2016.

11.It is submitted that the Women Police Tmt.Gomathi deposed that she was one who accompanied the 5th respondent while arresting Tmt.Indira from Ponparappi. The rest of 6 Police personnel participated in the enquiry have narrated their official role from taking Tmt.Indira to the Police custody to remanding her in Judicial Custody by the Hon'ble Magistrate, Ariyalur.

12.It is submitted that the CC.No.50 of 2017 in

Cr.No.51 of 2016 on the file of Chief Judicial Magistrate NO.II, Ariyalur, wherein the petitioner is 1st accused and his wife Tmt.Indira is 3rd accused and Krishnamoorthy is 2nd accused. This case has been posted for appearance of accused on 19.08.2017.

13. It is submitted that the C.C.No.284 of 2016 in Crime No.99 of 2016 on the file of Judicial Magistrate, Ariyalur, wherein the petitioner's wife Tmt.Indira is the sole accused. This case has been posted for the appearance of witnesses 1 to 5 on 12.09.2017.

*14.It is submitted that I have to come a conclusion out my personal enquiry that there is no reliable factual reason for the act of the Inspector of Police demanding for a bribe of Rs.10,000/- for not to register case against the writ petitioner's wife Indira.
.....”*

7. The Additional Deputy Superintendent of Police, after conducting an elaborate enquiry, has made categorical finding that there is no reliable and factual reason for the act of the Inspector of Police, demanding bribe of Rs.10,000/- for not registering a case against the wife of the writ petitioner.

8. Therefore, this Court is of the view that as, such an enquiry was

directed to be conducted in the writ petition, in view of the fact that the allegations against a public servant relates to the demand of bribe which is serious in nature, it is the duty of the Court and the officials to see that such allegations relating to corruption are viewed seriously and proper enquiry is conducted. The corruption being a menace and spreading like a cancer in this great nation, now, the time has come that every such allegations has to be dealt with strictly in accordance with law. Whenever the allegations of corruption are raised, it is the duty of the competent authorities as well as Courts to see that proper enquiry is conducted and if the allegations are established, then appropriate action against all concerned has to be initiated. Court cannot be silent on such allegations, even it is made through representation or by filing an affidavit before the Court of law. In this regard, the Court has directed the appropriate authorities to conduct enquiry into the allegations regarding the demand of corruption by the fifth respondent. However, the Deputy Superintendent of Police, as well as the Additional Superintendent of Police had conducted a detailed enquiry by examining the relevant witnesses in the case and found that there is no *prima facie* material against the fifth respondent in relation to the demand of bribe from the writ petitioner.

S.M.SUBRAMANIAM, J.

ms/kak

9. In such view of the matter, no further adjudication as raised in this writ petition needs to be undertaken. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

11.09.2017

Speaking/Non speaking order
Index : Yes/No
Internet: Yes/No
ms/kak

To

1.The Director General of Police,
Beach Road,
Chennai.

2.The Inspector General of Police,
T.V.S.Tolgate,
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3.The District Collector,
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4.The Superintendent of Police,
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