

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

W.A.No.249 of 2017

K.A.R.Menaasi Sutar

.. Appellant

Vs

1. The Director General of Police
Dr.Radhakrishnan Salai
Chennai - 4.
2. The Commissioner of Police
Greater Chennai
Vepery, Chennai - 7.
3. The Deputy Commissioner of Police
T.Nagar District, T.Nagar
Chennai - 17.
4. Radhakrishnan
Assistant Commissioner of Police (L&O)
T.Nagar Range,
T.Nagar, Chennai - 17.
5. Krishnamurthy
Inspector of Police (L&O)
R1 Police Station, Mambalam
T.Nagar, Chennai - 17.
6. Dr.D.Vadivel Mugundan
Chairman, St.John Ambulance (India)
Tamil Nadu State Center
No.1, Mayour V.R.Ramanathan Road (East)
Chetpet, Chennai - 31.
7. B.Sundari
Honorary Secretary, St.John Ambulance (India)
Tamil Nadu State Center
No.1, Mayour V.R.Ramanathan Road (East)
Chetpet, Chennai - 31.

.. Respondents

PRAYER: Appeal under Clause 15 of the Letters Patent against the order dated 2.11.2016 passed by the learned Single Judge in W.P.No.36891 of 2016.

WP.36891/16: Petition praying to issue a writ of mandamus, directing the respondents 2 and 3 to take necessary action on the petitioner's representation dt.28.9.2016.

For Appellant : Mr.R.Narendran

For Respondents : Mr.R.Vijayakumar
Addl. Government Pleader
for respondents 1 to 3

JUDGMENT

(Delivered by the Acting Chief Justice)

Calling into question the order dated 2.11.2016 passed by the learned Single Judge in W.P.No.36891 of 2016, the unsuccessful petitioner has filed the instant appeal.

2. It appears that based on a complaint given by the seventh respondent, an FIR was lodged against the appellant and two others. The appellant was remanded to judicial custody and was subsequently released on bail. Thereafter, he made a complaint dated 16.8.2016 to the second respondent levelling allegations against the sixth respondent and fifth respondent (who arrested him). Pursuant to the same, the appellant sent another representation on 28.9.2016 to the third respondent levelling allegations against the fifth respondent. Alleging that the said representations were once again forwarded to fifth respondent, the appellant filed the writ petition directing respondents 2 and 3 to take action based on his representation dated 28.9.2016.

3. The learned Single Judge, while dismissing the writ petition, held that the prayer made in the writ petition is not maintainable, as for issuance of a writ of mandamus there must be a statutory duty vested on the public authority by law. Taking note of the fact that the appellant is an accused in Cr.No.3999 of 2015, it was held by the learned Single Judge that the investigation against him can proceed only in terms of Chapter 12 of the Code of Criminal Procedure and it is not incumbent upon respondents 2 and 3 to consider such representation made by the appellant. Hence, the present appeal.

4. We have heard the learned counsel for the parties for some time and perused the impugned order and documents filed in support of this appeal.

5. Without going into the merits of the case, we hold that it is for the appellant to approach the police authorities concerned before whom the representation of the appellant is said to be pending and satisfy them as to the genuinity of his claim and it is for the respondent authorities to look into the matter and dispose of the representation of the appellant, if not already disposed of. The above direction will in no way hamper the investigation of the case registered against the appellant.

The appeal is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To:

1. The Director General of Police
Dr.Radhakrishnan Salai
Chennai - 4.
2. The Commissioner of Police
Greater Chennai
Vepery, Chennai - 7.
3. The Deputy Commissioner of Police
T.Nagar District, T.Nagar
Chennai - 17.

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W.A.No.249 of 2017

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