



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2017

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

W.P. (MD).Nos.10159 and 24314 of 2016

&

W.M.P. (MD).Nos.7939 and 7940 of 2016 in
WP (MD) No.10159 of 2016

W.P. (MD).No.10159 of 2016

V.Velladurai
President,
Eluchi Tamilargal Munnetra Kazhagam
No5/197, Chinnamangalakudi,
Uthangudi Post,
Madurai District.

.. Petitioner

Vs.

1.The Principal Secretary to Government,
Fort St.George, Chennai-9.

2.The Director General of Police,
Tamilnadu Police Department,
Mylapur, Chennai.

3.The Inspector General of Police,
South Zonal,
Race Course Road,
Natham Road,
Madurai.

4.Tmt.Malarvizhi
District Collector,
Sivagangai,
Sivagangai District.

5.Thiru.Shiyavu Hugh,
Superintendent of Police,
Sivagangai,
Sivagangai District.

6.Thiru.Balasubramanian,
Superintendent of Police,
Sivagangai,
Sivagangai District.



7.Thiru.Pon Ragu,
Inspector of Police,
Madagupatti Police Station,
Sivagangai District.

8.ThiruSenthurpandian,
Sub - Inspector of Police,
Madagupatti Police Station,
Sivagangai District.

.. Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3 to take necessary action against the respondents 4 to 8 for violation of human rights, brutal lathi charges handled on 23.05.2016 at about 10.30 p.m. At Madagupatti Village, Sivagangai District and consequently direction to the respondents to pay the appropriate compensation to the victims in the incident and further direction to the respondent Government to transfer the investigation in Crime No.135 of 2016 on the file of the Madagupatti Police Station, Sivagangai District to some other investigating agency such as Central Bureau Investigation Department.

For Petitioner :Mr.M.Ramu

For Respondents :Mr.T.S.Mohammed Mohindeen for R1 to R3
Additional Government Pleader

W.P. (MD) .No.24314 of 2016

Rajasekaran

.. Petitioner

Vs.

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The District Revenue Officer,
Collectorate Campus,
Sivagangai District,
Sivagangai.
- 3.The Revenue Divisional Officer,
Collectorate Campus,
Sivagangai,
Sivagangai District.
- 4.The Tahsildar,
Sivagangai Taluk,
Sivagangai District.
- 5.The Village Administrative Officer,
Madhagupatti,
Sivagangai District.

.. Respondents



Prayer:- Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3 to publish the result of the truthness enquiry conducted on 24.07.2016 by the 3rd respondent

For Petitioner : Mr.M.Ramu
For Respondents : Mr.T.S.Mohammed Mohindeen
Additional Government Pleader

COMMON ORDER

It is seen that members of one particular community wanted to celebrate Sadaya Vizha Festival of Perarasar Perumpidugu Mutharaiyar on 23.05.2016 for which permission was refused by the police authority on 20.05.2016. In this connection, aggrieved by the refusal of permission, members of the said community assembled in huge numbers gherao to police station resulting in a serious law and order problem.

2. In this connection, a case in Cr.No.135 of 2016 was registered on the complaint by the Village Administrative Officer, Madagupatti, for the offenses punishable under Sections 147, 148, 294(b), 323, 324, 332, 452, 506(ii) and 307 IPC and Section 3 of TNPPDL Act, 1992 against 49 named accused and 450 unnamed persons.

3. It is the contention of the petitioners that there was police excess during the agitation. According to the petitioners, the members of the said community were peacefully agitating and seeking for transfer of Sub Inspector of Police, Madagupatti Police Station, Sivagangai District and that it was the police who had committed excess by damaging the house of innocent persons and indiscriminately effected lathi charge. Therefore, the petitioners are before this Court with these two writ petitions.

4. The respondents have filed their counter stoutly denying the allegations and it is seen that the Revenue Divisional Officer had conducted an enquiry in connection with the incident that took place on 23.05.2016 and submitted a detailed report. A copy of the which has been furnished to the learned counsel for the petitioners.

5. It is the grievance of the learned counsel for the petitioners that the police have hurriedly completed the investigation in Cr.No.135 of 2016 and has filed the charge sheet against 400 persons who are innocent and therefore, a *de nova* investigation has to be conducted in this case.

6. The learned counsel further submitted that the petitioners have enough evidence to show that it was the police who were on the scene and not the peaceful agitators. In support of his contention, the learned counsel relied upon the judgment of a Hon'ble Division Bench of Gujarat High Court in *Suo Motu vs.*



Karanji, dated 22.03.2013 and the judgment of the Madras High Court in Thol.Thiruma Valavan v. State of Tamilnadu, dated 23.12.2011.

7. This Court has given its anxious consideration to the submissions made by the learned counsel on either side.

8. In the case before the Gujarat High Court, the Court took *suo motu* action against an incident that took place on 25.06.2012 in which many innocent Dalits became victim of police atrocity. Similarly in Thol.Thiruma Valavan's case a very serious incident took place at Paramakudi on 11.09.2011 and the Government of Tamilnadu even instituted commission of enquiry headed by the retired Judge of this Court. In this case, a dispassionate enquiry has been conducted by the Revenue Divisional Officer by examining various persons and a conclusion has been arrived at, wherein he has stated that the police were not responsible for the situation and that the incident had happened on account of members of the community gathering in huge numbers and pelting stones on the police.

9. Be that as it may, the petitioners have filed a quash petition challenging the prosecution that has been lodged by the police in Cr.No.135/2016 and the same is pending before this Court. That apart, according to the petitioners, proceedings before the Human Rights Commission have also been initiated. In Writ proceedings under Article 226 of the Constitution of India, disputed question of facts cannot be gone into. Therefore, these writ petitions are closed with liberty to the petitioners to work out their remedies before Human Rights Commission in accordance with law. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The District Revenue Officer,
Collectorate Campus,
Sivagangai District,



3.The Revenue Divisional Officer,
Collectorate Campus,
Sivagangai,
Sivagangai District.

4.The Tahsildar,
Sivagangai Taluk,
Sivagangai District.

5.The Village Administrative Officer,
Madhagupatti,
Sivagangai District.

6.The Principal Secretary to Government,
Fort St.George, Chennai-9.

7.The Director General of Police,
Tamilnadu Police Department,
Mylapur, Chennai.

8.The Inspector General of Police,
South Zonal,
Race Course Road,
Natham Road,
Madurai.

+One cc to Mr.M.Ramu, Advocate, SR.No.17837

+2ccs to The Special Government Pleader, SR.Nos.17589 and 17591

jikr

RL/12C/5P/SV/MMS/SAR2/27.3.2017

Order made in
W.P. (MD) .Nos.10159 and 24314 of 2016
&
W.M.P. (MD) .Nos.7939 and 7940 of 2016
in WP (MD) No.10159 of 2016