



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2017

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THE HON'BLE MR.JUSTICE P.N.PRAKASH

WP (MD) No.16474 of 2016

and

WMP (MD) No.12038 of 2016

Nelson Raja

... Petitioner

Vs

1. The Superintendent of Police,
Madurai District, Madurai.

2. The Inspector of Police,
Silaiman Police Station,
Madurai District.

3. Iswariya Nivetha.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorari to call for the records pertaining the impugned summons dated 23.08.2016 by the 2nd respondent and quash the same.

For Petitioner : Mr.M.Ramu

For Respondents : Mr.T.S.Mohammed Mohideen
1 and 2 Additional Government Pleader

O R D E R

The petitioner is the Principal of Fathima Michael College of Engineering and Technology, Senkottai Village, Madurai District. A student by name Ms.M.Ishwarya Nivetha appears to have given a complaint to the second respondent police making certain allegations against the institution. On receipt of the said complaint, the second respondent police instead of registering the regular FIR, had issued summons to the Principal of the College to appear before him for enquiry. The summons is under challenge in this writ petition.

2. Heard Mr.M.Ramu, learned counsel for the petitioner and the learned Additional Government Pleader appearing for the first



and second respondents.

3. The learned Additional Government Pleader submitted that the third respondent has given a complaint and therefore it is the duty of the second respondent police to conduct enquiry. Hence the second respondent police have summoned the Principal for enquiry, which cannot be subject to the judicial review under Article 226 of the Constitution of India.

4. Per contra Mr.M.Ramu, learned counsel for the petitioner vehemently submitted that the police ought not have entertained the complaint and conduct enquiry, because there is no jurisdiction to conduct an enquiry under Prevention of Ragging Act, at the outset.

5. It is not known what is the nature of the complaint that has been given by the third respondent. In **Lalitha Kumari vs. Govt. of U.P & others [2013 (4) Crimes 243 (SC)]**, the Hon'ble Supreme Court has very clearly stated that whenever a complaint is given to the police, it is the duty of the police to conduct enquiry and to register an FIR or atleast to conduct a preliminary enquiry and take action in accordance with law. In this case, a regular FIR has not yet been registered. Therefore it is too preposterous to say at this juncture that the police are investigating the case under Ragging Act. The power of the police to conduct an enquiry on a complaint given by a person cannot be subjected to judicial review especially in the light of the constitution Bench Judgment of the Hon'ble Supreme Court in Lalitha Kumari case.

6. MR.M.Ramu, learned counsel for the petitioner submitted that the college authorities have send a report dated 27.07.2016 stating that the third respondent had joined the college by producing certain fake educational qualification certificates and when that came to light, she has created a false story as if she is being harassed by the college authorities.

7. There appears to be some force in the submission of Mr.M.Ramu, learned counsel for the petitioner. However that will not mean that the police cannot even conduct any enquiry on the complaint given by the third respondent. However high a person is, he is amenable to the ordinary process of law. However, taking into consideration the fact that the petitioner is the Principal of a college and an academician by profession and further in view of the report sent by the Principal about the antecedents of the third respondent, this Court is of the view that it will serve the interest of justice, if the police is directed to go to the college and conduct the enquiry with the Principal there, instead of making the Principal come to the Police Station for enquiry.



8. With the above direction, this writ petition stands closed. No Costs. Consequently, connected miscellaneous petition is also closed.

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Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Madurai District, Madurai.
2. The Inspector of Police,
Silaiman Police Station,
Madurai District.

+1cc to Spl.Government Pleader Sr.No.54302
+1cc to Mr.T.Lajapathiroy, Advocate Sr.No.54151

pjl

vb/rsk/sar4/11.05.2017/3p/5c

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