



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2017

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

W.P.(MD) No.7219 of 2017

S.N.Ramamoorthy

... Petitioner

-vs-

1. The Government of Tamil Nadu,
Rep. by its Home Secretary,
Secretariat, St.George Fort,
Chennai.

2. The Commissioner of Police,
Egmore, Chennai-600 008.

3. The Assistant Commissioner of Police,
R1, Mambalam Police Station,
Chennai.

4. The Inspector of Police,
R1, Mambalam Police Station,
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing the respondents to consider the petitioner's representation dated 01.04.2017.

For Petitioner : Mr.S.Lingarasu

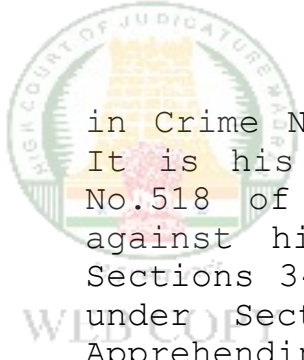
For Respondents : Mr.T.S.Mohammed Mohideen,
Addl. Govt. Pleader

Reserved on	Pronounced on
20.04.2017	27.04.2017

O R D E R

This petition has been filed, seeking to direct the respondents to consider the petitioner's representation dated 01.04.2017.

2. It is the case of the petitioner that his son Ragunath is a Mechanical Engineer, working in Indhuja Tech Company, Chennai and that the Police had foisted a false case against him on 22.03.2017



in Crime No.518 of 2017 under Sections 341, 307 and 506(ii) IPC. It is his further contention that apart from the case in Crime No.518 of 2017, the Police have also foisted two other cases against his son Ragunath, namely, Crime No.520 of 2017 under Sections 341, 294(b), 384 and 506(ii) IPC and Crime No.523 of 2017 under Sections 341, 294(b), 336, 427, 397 and 506(ii) IPC. Apprehending that his son Ragunath may be detained as a Goonda under Tamil Nadu Act 14 of 1982, the petitioner sent a representation dated 01.04.2017 to the respondents and has now filed the present writ petition.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the State.

4. Learned counsel for the petitioner submitted that the petitioner had given a representation to the respondents, which was received as a pre-detention representation and therefore, respondents should be directed to consider his representation and pass orders. In this regard, learned counsel for the petitioner relied upon a judgment of the Hon'ble Division Bench of this Court in the case of **Chandra and others vs. Secretary to Government and another**, reported in **(2010) 2 MLJ (Cr1) 1038**.

5. Per contra, learned Additional Government Pleader refuted the contention.

6. In the considered opinion of this Court, the judgment of the Hon'ble Division Bench relied upon by the petitioner would have no relevance to the issue at hand. In that case, the detainee was detained under Act 14 of 1982 and the representation given by him prior to his detention was not considered by the Detaining Authority at the time of passing the detention order and therefore, the Division Bench quashed the detention order on that ground. In other words, the detention order in the case was challenged by way of filing Habeas Corpus Petition on the ground that pre-detention representation was not considered by the Detaining Authority.

7. The proposition of law laid down in the said judgment cannot be stretched to the extent that the authorities are duty bound to dispose of such representations. A mandamus can be issued only on the failure of the authorities to perform the duty cast upon them by Statute. Neither the Code of Criminal Procedure nor Tamil Nadu Act 14 of 1982 casts a duty upon the authorities to dispose of precautionary representations given by all and sundry in anticipation of detention orders.

In the result, this writ petition is misconceived and the same is accordingly dismissed.

Sd/-

ASSISTANT REGISTRAR (CS-I)



To:

1. The Home Secretary,
Government of Tamil Nadu,
Secretariat, St.George Fort,
Chennai.
2. The Commissioner of Police,
Egmore, Chennai-600 008.
3. The Assistant Commissioner of Police,
R1, Mambalam Police Station,
Chennai.
4. The Inspector of Police,
R1, Mambalam Police Station,
Chennai.
5. The Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC TO M/S.S.LINGARASU,ADVOCATE,SR NO.54534

as

MAS/JC:08.05.2017:3P-7C

ORDER IN
W.P. (MD) No.7219 of 2017
27.04.2017