



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2017

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

W.P.(MD) No.23900 of 2016

C.Arm Strong

... Petitioner

-vs-

1. State rep. by,
The Secretary to the Govt.,
Home Department,
St.George Fort, Chennai.
2. The Director General of Police,
Office of the Director General of Police, Chennai.
3. The Deputy Inspector of General,
Office of D.I.G., Tirunelveli.
4. The Superintendent of Police,
Tirunelveli District, Tirunelveli.
5. Mr.Sangu
6. Mr.Jayakumar

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing i) the 4th respondent to take appropriate action against erring officials the 5th and 6th respondents in accordance with law, ii) the respondents to return all the properties belongs to him which was illegally grabbed by the 5th respondent and to return the two stamp papers worth about Rs.20/- each, which have been obtained by the S.I. of Police the 6th respondent, iii) the respondents to pay adequate compensation to the petitioner for the damages and for the human rights violations meted out on him by the 5th and 6th respondent police.

For Petitioner : Mr.K.K.Samy
For R1 to R4 : Mr.T.S.Mohammed Mohideen,
Addl. Govt. Pleader

O R D E R

It is seen that this petitioner had purchased broiler chickens for Rs.10,00,000/- from one Mariappan during the year 2013 and had failed to make the payment. It is also seen that the petitioner had issued two cheques for Rs.5,00,000/- and Rs.5,74,137/- to Mariappan, which, when presented, got dishonored. Mariappan died



on 08.09.2015 and thereafter, Mariappan's wife Kalaiselvi gave a complaint to the Superintendent of Police, Tirunelveli on 07.07.2016, making certain allegations against the petitioner and the said complaint was forwarded to the Deputy Superintendent of Police, who in turn forwarded the same to the Sub Inspector of Police, Pavoorchathiram Police Station, who registered a petition enquiry in CSR No.476 of 2016 and conducted enquiry on 16.07.2016. Now, it is alleged by the petitioner that during petition enquiry, he was called by the Police and he was beaten and they have obtained certain signatures from him on various stamp papers and have also forcibly taken the Aadhar card and ATM card from him. Therefore, the petitioner has filed the present writ petition for the above relief.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 4.

3. The Deputy Superintendent of Police has filed a counter, wherein he has stated as follows:

"5. It is humbly submitted that on 14.07.2016, I forwarded the petitioner to the Inspector of Police, Pavoorchathiram for necessary action and report within 3 days. It was subsequently ascertained that the Sub-Inspector of Police, Pavoorchathiram (R6), after issuing a CSR receipt No.476/2016 to the petitioner Thirumathi.Kalaiselvi conducted an enquiry on 16.07.2016.

6. It is humbly submitted that in the course of enquiry the writ petitioner was learnt to have admitted his business deal with the petitioner's husband and submitted a written report stating that he would pay Rs.4,00,000/- (Rupees Four Lakh only) on the coming Wednesday i.e. 20.07.2016 and Rs.2,00,000/- (Rupees two lakh only) a month later.

7. In reply to the averments made in Para 4 of the writ petition, it is humbly submitted that no record relating to the enquiry said to have been conducted earlier in this regard at Alangulam Police Station is traceable. However, it was found that the CSR No.40/2014 mentioned by the writ petitioner was a petition submitted by one Subbulakshmi w/o Chellappa of Maruthappapuram, not the one pertaining to the instant issue.

8. With regard to the averments made in Para 5 of the writ petition, it is humbly submitted that in connection with the petition dated 07.07.2016 submitted by Thirumathi.Kalaiselvi, an enquiry was conducted only by Thiru.S.Jayakumar, then Sub-Inspector of Police (R6) only at Pavoorchathiram Police Station on 16.07.2016. No enquiry was held on 13.07.2016 as alleged. Similarly no instruction was also given to the writ petitioner to appear at the DSP's office, Alangulam.



9. Respecting the averments made in Para 6 of the writ petition, it is humbly submitted that I had not conducted any enquiry in this regard. It is an invented story that I had compelled the writ petitioner to settle the amount and beaten him. Similarly, it was false and baseless to allege that I had told the Sub Inspector of Police (R6) to get a complaint from Thirumathi/Kalai Selvi that the writ petitioner had pulled her hand and outraged her modesty and that his father and mother had cursed me.

10. It is humbly submitted that the averments made in Para 7 alleging that the writer working in my office wrong on the stamp paper, showed it me and that I had asked the Sub-Inspector to get a print out in the other stamp paper from inside was a story of complete fabrication."

4. In fact, it is reported that petition enquiry has been closed in CSR No.476 of 2016. In the considered opinion of this Court, disputed question of facts cannot be decided in writ proceedings. Whenever a complaint is given, it is the duty of the Police to conduct enquiry as enjoined by the Hon'ble Supreme Court of India in Lalitha Kumari vs. Govt. of U.P & others [2013 (4) Crimes 243 (SC), and therefore, on the complaint given by Kalaiselvi, the Police conducted petition enquiry in CSR No.476 of 2016 by calling both the parties, which cannot be faulted. As regards other allegations made by the petitioner, they have been denied by the respondent Police. As stated above, this Court cannot go into the dispute facts in the writ petition and therefore, this petition is closed with liberty to the petitioner to work out his remedy in the manner known to law. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To:

1. The Secretary to the Govt.,
Home Department,
St.George Fort, Chennai.
2. The Director General of Police,
Office of the Director General of Police, Chennai.
3. The Deputy Inspector of General,
Office of D.I.G., Tirunelveli.
4. The Superintendent of Police,
Tirunelveli District, Tirunelveli.

+1 cc to Mr.K.K.Samy, Advocate, SR.No.50578

+1 cc to Special Government Pleader, SR.No. 50721

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