



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2017

WEB COPY

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

W.P. (MD) No.24004 of 2016

and

WMP (MD) No.17319 of 2016

Elangovan

... Petitioner

-vs-

1. The State represented by its Secretary,
Home Department, Fort St.George,
Chennai.
2. The Superintendent of Police,
Salem District, Salem.
3. The Deputy Superintendent of Police,
Aathur Division, O/o.The DSP,
Aathur, Salem.
4. The Inspector of Police,
Uppiliyapuram Police Station,
Uppiliyapuram, Trichy.
5. Dhandapani
6. Gunasekaran
7. Raja @ Ramachandran
8. Arul

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing the 1 to 4 respondents to take appropriate actions against the 5 to 8 respondents by considering the petitioner's representation dated 27.10.2016.

For Petitioner	: Mr.A.Mohamed Yusuf
For R1 to R4	: Mr.T.S.Mohammed Mohideen, Addl. Govt. Pleader
For R8	: M/s.V.Muthukamatchi
For R5 to R7	: No Appearance

O R D E R

This petition has been filed, seeking to direct the respondents 1 to 4 to take appropriate action against respondents 5 to 8 by considering the petitioner's representation dated 27.10.2016.

2. Heard the learned counsel for the petitioner, learned Additional Government Pleader appearing for R1 to R4 and the learned counsel for R8. Mr.N.Gunasekaran, the Sub-Inspector of Police, Aathur Police Station is present.

3. For the sake of convenience, the parties will be referred to by their names.

4. Elangovan / the petitioner herein and Raja @ Ramachandran / 7th respondent were good friends. It is the case of Elangovan that Raja @ Ramachandran borrowed Rs.5,00,000/- from him and executed a bond dated 27.05.2016, under which, he handed over a Tractor bearing Reg.No.TN-28 AT 0321 on mortgage to Elangovan. After having handed over the Tractor to Elangovan, Raja @ Ramachandran appears to have given a complaint to the Sub-Inspector of Police, Aathur Police Station, Salem District, alleging that Elangovan has illegally taken away his Tractor. On the said complaint given by Raja @ Ramachandran, a petition enquiry in CSR No.666 of 2016 was conducted and Police went to the place of Elangovan and finding the Tractor therein, they seized the Tractor and left it in the custody of the Inspector of Police, Uppiliyapuram Police Station, Trichy. Thereafter, it was reported by Raja @ Ramachandran that the entire transaction with Elangovan got settled and therefore, he asked Aathur Police to hand over the Tractor to him. On the instructions of Aathur Police, the Uppiliyapuram Police handed over the Tractor to one Arul / 8th respondent herein, a representative of Raja @ Ramachandran on 10.10.2016.

5. It is the grievance of Elangovan that Raja @ Ramachandran has somehow managed to take back the Tractor with the help of Aathur Police and therefore, suitable action should be taken against them. In this regard, he has given a representation dated 27.10.2016 to the Higher Police Authorities, except to the Superintendent of Police, under whose control Aathur Police comes.

6. Mr.Gunasekaran, the Sub-Inspector of Police, Aathur Police Station, has filed a counter affidavit, wherein in Paragraph Nos.3 to 7, it is stated as follows:

"3. It is further submitted that one Raja @ Ramachandran gave a complaint with the Aathur Police Station on 27.10.2016, stating that if the petitioner herein forcibly taken his tractor and trailer bearing registration No.TN 28 AT



0321 and hence recover the same from the petitioner and hand over to him. The said complaint was received by Aathur Police and registered in community service register in C.S.R.No.666 of 2016 on 06.10.2016. Since the complaint is lodged an enquiry has been conducted with the Raja @ Ramachandran and also with the counter petitioner Elangovan i.e., the petitioner herein.

4. It is further submitted that during enquiry it is learnt that there was some money transaction between the petitioner herein and the complainant Raja @ Ramachandran. For the transaction a cheque bearing No.015184 dated 15.09.2016 drawn on HDFC Bank, also has been issued by the complainant Raja @ Ramachandran in favour of the petitioner herein besides a promissory note also executed in favour of the petitioner herein.

5. It is further submitted that since the matter is of money transaction and for the repayment a cheque and Promissory note also has issued in favour of the petitioner, the forcible taken of tractor and trailer belongs to the complainant by the writ petitioner is admitted to return back with the complainant by the writ petitioner. So the tractor and trailer belongs to the complainant Raja @ Ramachandran was brought to Uppiliyapuram Police Station and the same was entrusted with them since there is no driver available to take the tractor and trailer with Aathur Police Station. It is further agreed by both parties that they will resolve the dispute in the money transaction amicably within 2 days and report the same with Aathur Police.

6. It is further submitted that though the petitioner herein and the complainant agreed to report the settlement the present writ petition not turned up further enquiry and the complainant Raja @ Ramachandran came for enquiry with his lawyer. The complainant Raja @ Ramachandran reported that settled the money transaction with the petitioner herein and sought for the possession and custody of said tractor and trailer which was entrusted with the Uppiliyapuram Police Station. The efforts taken by the Aathur Police to contact the writ petitioner herein went in vain and hence presumed that the matter is settled.

7. It is further submitted that since the matter is settled on 09.10.2016 as per the instruction of Aathur police station a communication is sent to the Uppiliyapuram Police Station to hand over the said tractor and trailer to one Mr.Arul son of Segutuvél so as to entrust the same to the complainant Raja @



Ramachandran who is the registered owner of the tractor and trailer. As per the request the Uppiliyapuram Police handed over the tractor with said Arul and the same was received by Aathur Police on 10.10.2016 and that day itself the tractor and trailer was handed over to the complainant Raja @ Ramachandran."

7. From the facts admitted by the Sub-Inspector of Police, it is crystal clear that on the mere complaint of Raja @ Ramachandran in respect of a civil transaction, petition enquiry was conducted in CSR No.666 of 2016 and with great zeal, Aathur Police has gone all the way to Trichy and has recovered the Tractor and left it with the Uppiliyapuram Police Station for safe custody. Thereafter, on the representation of Raja @ Ramachandran that the matter has been settled, they have directed the Uppiliyapuram Police to hand over the Tractor to Raja @ Ramachandran and Uppiliyapuram Police implicitly obeyed the instruction of Aathur Police by handing over the Tractor to Arul.

8. The admitted case of the Police thus shows that Raja @ Ramachandran had issued a promissory note and also a cheque in favour of Elangovan in respect of a civil transaction between them. Elangovan has also filed a copy of the bond dated 27.05.2016, executed by Raja @ Ramachandran, wherein there is a reference to the Tractor, as having been given as security for the loan. The fact remains that the Tractor was in Trichy jurisdiction and it was at the instance of Aathur Police, it was taken from Elangovan and kept in the custody of Uppiliyapuram Police. There are prima facie materials to show that Aathur Police have exceeded their jurisdiction in involving themselves in a purely civil transaction.

9. Under such circumstances, liberty is granted to the petitioner to give a representation to the Superintendent of Police, Salem District within one week from the date of receipt of a copy of this order and on such representation being given, the same shall be enquired into by the Superintendent of Police, Salem District and action taken in accordance with law against the erring Officials of Aathur Police.

With the above direction, this petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar



To:

1. The Secretary,
Home Department,
Fort St.George, Chennai.
2. The Superintendent of Police,
Salem District,
Salem.
3. The Deputy Superintendent of Police,
Aathur Division, Aathur,
Salem.
4. The Inspector of Police,
Uppiliyapuram Police Station,
Uppiliyapuram, Trichy.

+1cc to Mr.A.Mohamed Yusuf, Advocate Sr.No.15182
+1cc to M/s.V.Muthukamatchi, Advocate Sr.No.15597
+1cc to Spl.Government Pleader Sr.No.15078

AR

VB/JC/SAR2/11.04.2017/5P/8C

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