



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.06.2017

Pronounced on : 21.06.2017

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL. OP. (MD) Nos.611 of 2011 and 15523 of 2015
and

M.P.No.2 of 2015 in Crl.O.P. (MD) No.611/2011

Crl.O.P. (MD) No.611/2011

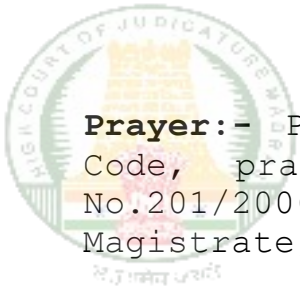
S.J.Sundar Singh

..Petitioner

Vs.

1. P.K.Mishra
The Chairman Ordinance Factory Board
S.K.Bose Road, Kolkatta 700 001 (W.B)
2. C.S.Sivakumar
General Manager, Ordinance Factory
Tiruchirappalli-16
3. V.Gajendran
Joint General Manager, Ordinance Factory
Tiruchirappalli-16
4. M.K.Garg
Joint General Manager (Planning)
Ordinance Factory
Tiruchirappalli-16
5. Premchandra
Works Manager,
QCM/HRD, Ordinance Factory
Tiruchirappalli-16
6. K.Sethuram
Additional General Manager, Admin
Ordinance Factory
Tiruchirappalli-16
7. State represented by
The Inspector of Police
Navalpattu Police Station,
Tiruchirappalli-26

.. Respondents



Prayer:- Petition filed under Section 482 of Criminal Procedure Code, praying to call for the entire records of the FIR No.201/2006 and SR No.5576/2008 from the Chief Judicial Magistrate, Tiruchirappalli and set aside the same.

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For Petitioner : Mr.Sundar Singh
Party in Person
For Respondents : Mr.K.Anbarasan for R7
Government Advocate (Crl. side)

Crl.O.P. (MD) No.15523/2015

S.J.Sundar Singh ..Petitioner

Vs.

1. State represented by
The Inspector of Police
Navalpattu Police Station,
Anna Nagar,Tiruchirappalli-26

2. The District Superintendent of Police,
Rural Office of the D.P.O
Subramaniapuram
Tiruchirappalli-20

.. Respondents

Prayer:- Petition filed under Section 482 of Criminal Procedure Code, praying for a direction to transfer the investigation in Crime No.201/2006 of Navalpattu Police Station, to any other independent investigating agency.

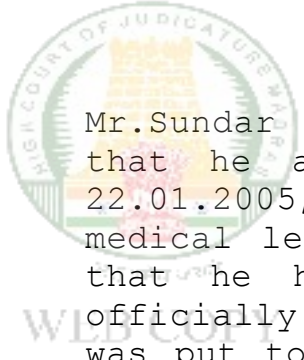
For Petitioner : Mr.Sundar Singh
Party in Person
For Respondents : Mr.K.Anbarasan
Government Advocate (Crl. side)

COMMON ORDER

Heard Mr.Sundar Singh, party in person and the learned Government Advocate (Crl. Side) for the respondent State.

2. To understand his case, this Court plodded through the entire records including the Case Diary that was produced by the Inspector of Police, Navalpattu Police Station.

3. It is seen that Mr.Sundar Singh was working as a Store Holder in the Ordinance Factory, Trichy. It appears that a charge memorandum under Rule 14 for imposition of major penalty was instituted against him vide charge Memo No.7931/Vigilance/08 dated 13.04.2005 in respect of certain acts of misconduct that is said to have been committed by him during his employment. According to



Mr.Sundar Singh, he is not at all aware of the proceedings and that he attended the office on 19.01.2005 and thereafter on 22.01.2005, he appeared before the Medical Officer and went on medical leave. When questioned by this Court, he frankly stated that he has not gone to the office thereafter and that he officially superannuated on 30.09.2005. When a specific question was put to him, as to whether he is receiving pension, he stated that he is not receiving any pension.

4. Mr.Sundar Singh filed a private complaint before the Judicial Magistrate, No.3, Trichy against P.K.Mishra, the Chairman, Ordinance Factories Board, Government of India, C.S.Sivakumar, the General Manager, Ordinance Factory, Trichy, V.Gajendran, the Joint General Manager, Ordinance Factory, Trichy, M.K.Garg, Joint General Manager (Planning), Ordinance Factory, Trichy, Premchandra, Works Manager, K.Sethuram, Additional General Manager, alleging that these officers had committed various offences by abusing their office, punishable under Sections 120 (B), 204, 403, 409, 417, 424, 464, 465, 477 IPC and for offences under Prevention of Corruption Act.

5. On a reading of the private complaint, it is seen that he has not stated the offences that would constitute the various penal provisions of the Indian Penal Code, but has made vague allegations against all the officers stated above. At the threshold his complaint should have been dismissed by the Judicial Magistrate, No.3, Trichy. However, the Judicial Magistrate, No.3, Trichy, had issued directions dated 06.09.2006 under section 156 (3) Cr.P.C., directing the Navalpattu Police to register a regular case. On the orders passed by the Judicial Magistrate, No.III, Trichy, the Navalpattu Police registered a case in Crime No.201/2006 under Sections 34, 120(B), 204, 403, 409, 417, 424, 464, 465, 477 and 477(A) IPC against the above named officers of the Ordinance Factory. The Police completed the investigation and closed the case as 'Mistake of fact' on 08.04.2007 and filed the same before the Judicial Magistrate, No.III, Trichy, after serving the same on Mr.Sundar Singh.

6. Mr.Sundar Singh filed his protest petition before the Judicial Magistrate, No.III, Trichy, in which, the learned Judicial Magistrate passed an order dated 17.03.2008 ordering further investigation on the ground that the Investigating Officer, who had investigated earlier had retired. In the opinion of this Court, the fact that the earlier investigating officer has closed the case as 'Mistake of Fact' and if the Magistrate wants to order further investigation, it is incumbent upon him to say why he is not agreeing with the conclusion arrived at by the Investigating Officer. Instead of giving such reasons, the Magistrate merely stated that the earlier Investigating Officer has retired and therefore, the Court is directing the present Inspector to conduct further investigation. In the opinion



of this Court, the order dated 17.03.2008 passed by the Judicial Magistrate, No.III, Trichy is ex-facie unsustainable and is, therefore, quashed.

7. After a lapse of four years, Sundar Singh filed Crl.O.P. (MD) No.611 of 2011 to conduct reinvestigation in Navalpattu P.S. in Crime No.201/2006 making allegations against the police officers, who had conducted the investigation. He has made reckless allegations against Judicial Magistrate No.III, and the Inspector of Police, Mr.Bharathidasan, Navalpattu Police Station. During the pendency of this Crl.O.P.No.611/2011, Sundar Singh filed Crl.O.P.(MD) No.15523/2015 for transfer of investigation in Crime No.201/2006 from the file of Navalpattu Police to any other independent agency. During the pendency of these petitions, he has filed several miscellaneous petitions, which were found to be not maintainable by the Registry, as they were beyond the scope of the original prayer in the main petitions. Therefore, those miscellaneous petitions were also posted along with the main petitions for deciding their maintainability.

8. As admitted by Mr.Sundar Singh, he was working as Store holder in the Ordinance Factory, Trichy. According to him, he last attended the office on 19.01.2005 and thereafter, he has gone on Medical leave from 22.01.2005. Even according to him, he superannuated on 30.09.2005, but, still, he is not receiving the pension. To a pointed question by this Court whether he is facing any departmental action, he pleads ignorance. When this Court asked the question to him as to whether he has taken any steps to claim pension, he stated that he had not received even the four months salary and therefore, he had not taken any steps seeking pension. The conduct of Mr.Sundar Singh is indeed very weird. His contention that he is not aware about the departmental proceedings against him does not cut ice with this Court. The fact that he is not getting pension is because, he would not have been allowed to retire, in view of the pendency of departmental proceedings against him. That is the exact reason why he is not getting his pension. The complaint filed by Sundar Singh against the officials is a counterblast to get over the departmental action against him.

9. Thus, in the opinion of this Court, both the petitions are devoid of merits and the same are, accordingly, dismissed. In view of the dismissal of the main petition, the Miscellaneous Petition stands dismissed.

Sd/-

Assistant Registrar(CO)

/True Copy/



To

1. The District Superintendent of Police,
Rural Office of the D.P.O
Subramaniapuram
Tiruchirappalli.

2. The Inspector of Police
Navalpattu Police Station,
Tiruchirappalli.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.Jayasingh, Advocate Sr.No.61136

RR

VB/JC/SAR1/12.07.2017/5P/5C

**CRL. OP. (MD) No.611 of 2011 and 15523 of 2015
and
Crl.M.P.No.2 of 2015 in Crl.O.P. (MD) No.611/2011**

21.06.2017