

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.08.2018

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

W.P. No. 20878 of 2018

V.Nagarathinam

...Petitioner

vs

1.The Director General of Police,
Chennai.

2.The Superintendent of Police,
Vellore Range, Vellore.

3.Mr.Ponchollai
The Inspector of Police,
Thirupathur Town Police Station,
Thirupathur.

4.Mr.Subramani (HC-1398)
Head Constable,
Thirupathur Town Police Station,
Thirupathur.

5.Mr.Kumar, (HC - 3236),
Head Constable,
Thirupathur Town Police Station,
Thirupathur.

6.Mr.Tamilalagan (PC-805)
Driver,
Thirupathur Town Police Station,
Thirupathur.

7.Mr.Ganesh Kumar,
The Inspector of Police,
Sipcot Police Station,
Tuticorin.

...Respondents

prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to consider the petitioner's representation dated 23.01.2018 as per law within the stipulated time fixed by this Court.

For Petitioner : Mr.S.Kumarasamy for
M.s.S.Gunalan

For Respondents: Mrs.M.Prabhavathi, APP

ORDER

The petitioner has approached this Court, seeking the following relief:-

"To issue a Writ of Mandamus directing the 1st respondent to consider the petitioner's representation dated 23.01.2018 as per law within the stipulated time fixed by this Court."

2. The petitioner is facing a prosecution in C.C.No.54 of 2018 for the offences under Sections 343 and 506(i) IPC before the Judicial Magistrate, Pappireddypatti. During trial, the defacto complainant [PW1] turned hostile and stated that he had not lodged any complaint against the petitioner to the police. In view of the same, the petitioner was acquitted by the trial Court on 11.10.2017. Thereafter, the petitioner has sent a representation dated 23.01.2018, to the authorities to take action against the police personnel who had registered the case. Thereafter, the petitioner has received summons dated 28.03.2018, from the Inspector of Police, Thirupathur under Section 91 Cr.P.C., asking him to come for enquiry in connection with the complaint dated 23.01.2018. While so, the petitioner has filed the present petition with the above prayer.

3. Mr.S.Kumarasamy, learned counsel for the petitioner submitted that a false case has been foisted against the petitioner and that is why, the petitioner was acquitted by the trial Court on 11.10.2017. In the said circumstances, when the petitioner has given a representation to the police to take action against the erring officials, the Inspector of Police, Town Police Station, Tirupathur, ought not to have issued summons under Section 91 Cr.P.C. asking the petitioner to come for enquiry on 31.03.2018. It is true that the provision of Section 91 Cr.P.C., can be invoked only for the production of documents or records. However, the fact remains that the petitioner has given a complaint for departmental action. The copy of the complaint has been sent to seven persons including the Superintendent of Police, Dharmapuri. The Inspector of Police has received the communication from the office of the Superintendent of Police, as could be seen from the summons dated 28.03.2018. The Inspector of Police could have sent an ordinary letter to the petitioner, asking him to come for

enquiry, instead, he issued summons form under Section 91 Cr.P.C., which is irregular. On this score alone, it cannot be stated that the entire enquiry is vitiated. It is always open to the petitioner to appear before the Inspector of Police and give necessary details in his custody.

4. However, a Mandamus as prayed for by the petitioner cannot be granted, since there is no statutory obligation upon the respondents to dispose of the said representation. If the prosecution had been illegal, it is always open to the petitioner to work out his remedy in the manner known to law.

5. Hence, this writ petition is liable to be dismissed as devoid of merits and accordingly, the same is dismissed.

Sd/--
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Director General of Police,
Chennai.
- 2.The Superintendent of Police,
Vellore Range, Vellore.
- 3.The Public Prosecutor High court, Madras

+1cc to Mr.S.Gunalan, Advocate SR.NO.56507

sm:31.8.2018

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