

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

Suo Motu W.P.No.5756 of 2018

- 1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Home Department,
Fort St. George, Secretariat,
Chennai-600 009.
- 2.The Director General of Police,
Mylapore,
Chennai-600 004.
- 3.The Superintendent of Police,
Thoothukudi District.
- 4.Sundaram,
Sub Inspector of Police,
Thoothukudi Police Station,
Thoothukudi District. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for a Writ of Mandamus, directing the respondents 1 to 3 to take appropriate action against the 4th respondent the Sub Inspector of Police regarding atrocities/excesses on his part.

For Petitioner : Mr.G.Mohanakrishnan
Dr.R.Sampathkumar

For R1 to R3 : Mr.P.H.Aravind Pandian
Addl. Advocate General-II

ORDER

(Order of this Court was made by S.MANIKUMAR, J.)

On 12.03.2018, Hon'ble First Bench of this Court, initiated
Suo Motu Public Interest Litigation. Order reads thus:-

"Suo Motu Public Interest Litigation be
initiated on the basis of the letter dated
08.03.2018 written by the President of Madras High

Court Advocates' Association, Chennai, regarding atrocities/excesses on the part of the Sub Inspector of Police, Mr.Sundaram, of Thattarmadam Police Station, Thoothukudi District.

Let the Director General of Police, Chennai, the Superintendent of Police, Thoothukudi District and the Secretary to Government of Tamil Nadu, Home Department, be impleaded as respondents and notice be served through Mr.T.N.Rajagopalan, learned Government Pleader.

The Sub Inspector of Police be also impleaded as party respondent in his individual capacity and notice be issued to him.

List on 19.03.2018."

2. Record of proceedings shows that, on 16.07.2018, Hon'ble First Bench of this Court, has ordered thus:-

"Counter-affidavit be filed within two (2) weeks. Rejoinder thereto, if any, be filed within one (1) week thereafter.

All CC TC recording shall be preserved.

It is recorded that the learned counsel, M/s.R.S.Maitreya and Keerthana, appearing for respondent no.4, have given change of vakalat.

List on 13.08.2018 at 2.15 p.m."

3. Responding to the notice and directions, Superintendent of Police, Thoothukudi District, Thoothukudi, has filed, a status report.

4. From the perusal of the same, it could be deduced that, on the compliant given by the Sundaram, Sub Inspector of Police, Thattarmadam Police Station, Thoothukudi District, case has been registered, against S.Periyasamy, Advocate, in Crime No.21/2018, under Sections 294(b), 332 and 506(i) of Indian Penal code.

5. On the complaint given by Advocate Mr.S.Periyasamy, case has been registered against Mr.Sundaram, Sub Inspector of Police, Thoothukudi Police Station, Thoothukudi District, 4th respondent herein, in Crime No.22/2018 under Sections 342, 323, 506(i) of Indian Penal Code.

6. Superintendent of Police, Thoothukudi District, Thoothukudi in his status report, has further submitted that, a preliminary enquiry has been ordered in C.No.F1/11982/18 dated 16.03.2018 under rule 3(b) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules 1955 and that the same is pending. Further 4th respondent has been transferred to Central Police Station, Thoothukudi in C.No.A1/26172/2018.

7. Superintendent of Police, Thoothukudi District has further submitted that the preliminary enquiry, is being conducted in a fair manner, by the Deputy Superintendent of Police, Sathankulam.

8. At paragraph No.5 of the status report, Superintendent of Police, Thoothukudi District, Thoothukudi, has further stated as follows:-

"5.It is humble submitted that, it is false to say that the Sub Inspector of Police, Thattarmadam Police Station has asked Advocate. Periyasamy to take selfie in his mobile phone. Investigation reveals that Advocate Periyasamy was the first one to assault the said Sub Inspector of Police. Further, with ulterior motive to implicate the Sub Inspector of Police, the said Advocate Periyasamy himself has wantonly snapped a selfie in his mobile phone with the Sub Inspector of Police standing behind him while Sub Inspector of Police was trying to neutralize the situation."

9. Superintendent of Police, Thoothukudi District, Thoothukudi, has also denied the averments made by the petitioner against the 4th respondent herein, as false, frivolous and motivated.

10. We have heard, Mr.G.Mohanakrishnan, learned counsel appearing for Madras High Court Advocates Association and Mr.P.H.Aravind Pandian, learned Additional Advocate General-II and perused all the materials available on record.

11. As stated supra, case and counter case have been registered against Mr.S.Periyasamy, Advocate and Mr.Sundaram, Sub Inspector of Police, Thoothukudi Police Station, Thoothukudi District, respectively. Preliminary enquiry has been ordered on 16.03.2018 under Rule 3(b) of TNPSS (D&A) Rules 1955 and according to the Superintendent of Police, Thoothukudi District, Thoothukudi, the said preliminary enquiry is being conducted in a fair manner, by the Deputy Superintendent of Police, Sathankulam. Preliminary enquiry is prelude to the departmental proceedings.

12. From the counter affidavit, it could be deduced that such preliminary enquiry is pending. Though, it is for the purpose of arriving at a conclusion, as to whether, a regular departmental enquiry is required to be ordered, under rule 3(b) of the TNPSS (D&A) Rules 1955, Superintendent of Police,

Thoothukudi District, Thoothukudi, has stated that, with ulterior motive, to implicate the Sub Inspector of Police, the said Advocate Mr.Periyasamy himself has wantonly snapped a selfie in his mobile phone with the Sub Inspector of Police standing behind him while Sub Inspector of Police was trying to neutralize the situation. He has also stated that the averments made by the Advocate Mr.S.Periyasamy, are false, frivolous and motivated against the 4th respondent herein, who has rendered his service with utmost sincerity, dedications and perseverance. The above contentions, at this stage, cannot be accepted by this Court, for the reason that Mr.P.H.Aravind Pandian, learned Additional Advocate General-II, submitted that though investigation of both Crime Nos.21/2018 and 22/2018, were directed to be taken up by Mr.Rhenius Jesupatham, Inspector of Police, Thattarmadam Police Station, Thoothukudi District, the same is yet to commence. Averments made in Paragraph Nos.5 and 6 of the status report, which are conclusive, even before the commencement of the investigation are rejected.

13. Investigation of both Crime Nos.21/2018 and 22/2018, now stated to be pending with the Inspector of Police, Thattarmadam Police Station, is working under the control of the Superintendent of Police, Thoothukudi. To have an unbiased and impartial investigation of both the Crime Nos.21/2018 and 22/2018, the same requires to be changed.

14. Mr.G.Mohanakrishnan, learned counsel appearing for Madras High Court Advocates Association and Mr.P.H.Aravind Pandian, learned Additional Advocate General-II, consented that the investigation of the above said Crime Numbers, Cr. Nos.21/2018 and 22/2018 on the file of Thattarmadam Police Station, Thoothukudi District, be changed to CBCID.

15. Placing on record the consensus, we direct transfer of investigation of Crime Nos.21/2018 and 22/2018, on the file of Thattarmadam Police Station, Thoothukudi District, Thoothukudi, Inspector General of Police, CBCID.

16. The Inspector General of Police, CBCID, shall issue suitable directions for a fair and impartial investigation of the above said crime numbers. Monitoring, be done. Final report be submitted to the Court of competent Jurisdiction, within six weeks from the date of receipt of a copy of this order.

17. While doing so, Inspector General of Police, CBCID, shall take note of the evidence already directed to be preserved by this Court and further evidence, collected during investigation.

18. With the above directions, Suo Muto Public Interest Litigation writ petition is disposed of.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

- 1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Home Department,
Fort St. George, Secretariat,
Chennai-600 009.
- 2.The Director General of Police,
Mylapore,
Chennai-600 004.
- 3.The Superintendent of Police,
Thoothukudi District.
- 4.The Inspector General of Police,
CBCID, Chennai.

W.P.No.5756 of 2018

nr 07/09/2018

सत्यमेव जयते
WEB COPY