

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 16.07.2018
PRONOUNCED ON: 19.07.2018

CORAM:

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

W.P. No.17448 of 2018

K. Arul

... Petitioner

vs.

1 The Director General of Police
Tamil Nadu
Chennai 600 004

2 The Superintendent of Police
Cuddalore District
Cuddalore 607 001

3 The Inspector of Police
Cuddalore N.T. Police Station
Cuddalore 607 001

4 The Sub Inspector of Police
Cuddalore N.T. Police Station
Cuddalore 607 001

5 The State of Tamil Nadu
represented by Head Constable of Police
Cuddalore N.T. Police Station
Cuddalore 607 001

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a writ of mandamus directing the respondents to pay compensation to the petitioner for his illegal confinement for 47 days.

For petitioner Mr. K. Arul - Party-in-person

For respondents Mr. D.Raja, Addl. Govt. Pleader

ORDER

This writ petition has been preferred seeking a writ of mandamus directing the respondents to pay compensation to the petitioner for his illegal confinement for 47 days.

2 On the complaint lodged by one Chelladurai, the Station House Officer, Cuddalore N.T. Police Station, registered a case in Cr. No.526 of 2016 under Sections 294(b), 427, 352 and 506(2) IPC against the petitioner herein on 27.09.2016 and the petitioner was arrested on the same day and was produced before the jurisdictional Magistrate who remanded him to custody. The petitioner was released on bail thereafter and after completion of the investigation in Cr. No.526 of 2016, the respondent police have filed a charge sheet in C.C. No.526 of 2016 before the Judicial Magistrate No.II, Cuddalore, for the aforesaid offences against the petitioner. While so, the petitioner moved the Supreme Court seeking certain reliefs in W.P. (Crl.) No.155 of 2017 alleging that his very arrest and detention were illegal. The Supreme Court had permitted the petitioner to withdraw the writ petition with liberty to approach the High Court. Hence, this writ petition seeking the aforesaid relief.

3 Heard the petitioner who appeared as party-in-person and the learned Additional Government Pleader appearing for the respondents.

4 The allegation levelled by the petitioner against the Station House Officer of Cuddalore N.T. Police Station is that the FIR ought not to have been registered against him and he should not have been arrested. His prayer in the writ petition is for compensation on the ground that he was kept in illegal confinement for 47 days. The petitioner placed strong reliance upon the judgment of the Supreme Court in Dr. Rini Johar and another vs. State of Madhya Pradesh and others [2016 SAR (Criminal) 799 SC].

5 Before proceeding to delve into the issue, it may be necessary to briefly state the allegations against the petitioner in the final report in C.C. No.526 of 2016.

6 Chelladurai, the de facto complainant and the petitioner are neighbours. There was a compound wall separating their houses and both of them were claiming right over it. On 27.09.2016, around 9.30 a.m., the petitioner started demolishing the said compound wall with a hammer. The de facto complainant intervened and asked him to stop the demolition work. At that time, the petitioner is said to have assaulted the de facto complainant and had abused and threatened him. Hence, the FIR and the consequential charge sheet.

7 It is the grievance of the petitioner that he had also given complaints against the de facto complainant and that no action was taken on his complaints. In support of this contention, the petitioner has placed reliance upon the CSR

receipts that were issued by the police to him on his complaints.

8 The petitioner has not placed any substantial material to show that the allegations against him were false. On the contrary, the charge sheet in C.C. No.526 of 2016 shows that the police have examined several witnesses and have formed the opinion that it was the petitioner who had demolished the compound wall and had attacked the de facto complainant.

9 Reliance placed by the petitioner upon the judgment of the Supreme Court in Dr. Rini Johar (supra) is indeed misplaced. In that case, the petitioner therein was arrested on the complaint given by the 8th respondent therein in respect of a purely civil dispute. The Supreme Court went into the allegations and found that a simple civil transaction was given a criminal colour and the petitioner therein was arrested. For better appreciation, it may be necessary to extract the relevant passage from the said judgment:

"28.The only offence, therefore, that remains are Section 420 IPC. The learned Magistrate has recorded a finding that there has been no impersonation. However, he has opined that there are some material to show that the petitioners had intention to cheat. On a perusal of the FIR, it is clear to us that the dispute is purely of a civil nature but a maladroitness effort has been made to give it a criminal colour."

10 In that context, the Supreme Court quashed the prosecution and awarded compensation, whereas, in this case, the petitioner had physically assaulted the de facto complainant and had caused damage to the compound wall. When there are disputed questions of fact, the same cannot be gone into in writ proceedings. Further, in the opinion of this Court, this writ petition has been filed only to sidetrack the issue and obstruct the prosecution in C.C. No.526 of 2016.

In such view of the matter, this writ petition stands dismissed as being devoid of merits. Costs made easy.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

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Chennai 600 004

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Cuddalore District
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SPD(CO)
GSP(27/07/2018)



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