

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.15196 of 2018

Shanmugam

.. Petitioner

Vs

1. The Superintendent of Police,
Villupuram, Villupuram District.

2. The Deputy Superintendent of Police,
Ulundurpet, Villupuram District.

3. The Inspector of Police,
Ulundurpet Police Station,
Ulundurpet,
Villupuram District.

.. Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the respondents to act in accordance with the direction made in Crl.A.No.416 of 2018 dated 20.11.2017.

For Petitioner : Mr.R.C.Paul Kanagaraj

For Respondents : Mr.C.Raghavan, Govt. Advocate

O R D E R

This petition has been filed to direct the respondents to act in accordance with the directions of the Hon'ble Supreme Court made in the order dated 20.11.2017 in Crl.A.No.416 of 2018.

2.Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and perused the materials placed on record.

3.When the matter was taken up for hearing, the learned Government Advocate submitted that on the complaint given by the petitioner, petition enquiry is pending in C.S.R.No.321 of 2018 against one Kathir, Rajasekar and Vijayavarman. He further submitted that the complainant and counter petitioners belong to ADMK party and on account of some disputes between them, the

petitioner has lodged a complaint and the same is under enquiry by the Deputy Superintendent of Police/R2.

4.It is the grievance of the petitioner that his complaint discloses the commission of an offence under the SC/ST [Prevention of Atrocities] Act and therefore, the respondent is required to follow the law laid down by the Hon'ble Supreme Court in Crl.A.No.416 of 2018 dated 20.03.2018. It is true that the Hon'ble Supreme Court has issued the following directions :

"83.Our conclusions are as follows:

i) Proceedings in the present case are clear abuse of process of Court and are quashed.

ii) There is no absolute bar against grant of anticipatory bail in cases under the Atrocities Act if no prima facie case is made out or where on judicial scrutiny the complaint is found to be prima facie mala fide. We approve the view taken and approach of the Gujarat High Court in Pankaj D Suthar Vs. State of Gujarat reported in (1992)1 GLR 405 and Dr.N.T.Desai Vs. State of Gujarat reported in (1997)2 GLR 942 and clarify the judgments of this Court in State of M.P. Vs. Ram Krishna Balothia reported in (1995)3 SCC 221 and Manju Devi Vs. Onkarjit Singh Ahluwalia reported in (2017)13 SCC 439 ;

iii) In view of acknowledged abuse of law or arrest in cases under the Atrocities Act, arrest of a public servant can only be after approval of the appointing authority and of a non-public servant after approval by the S.S.P. which may be granted in appropriate cases if considered necessary for reasons recorded. Such reasons must be scrutinized by the Magistrate for permitting further detention.

iv) To avoid false implication of an innocent, a preliminary enquiry may be conducted by the DSP concerned to find out whether the allegations make out a case under Atrocities Act and that the allegations are not frivolous or motivated.

v) Any violation of direction (iii) and (iv) will be actionable by way of disciplinary action as well as contempt.

The above directions are prospective."

5.In view of the above directions, the 2nd respondent Police is directed to take suitable action based on the aforesaid directions and either close the complaint or register FIR as the case may be.

With the above direction, this petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Superintendent of Police,
Villupuram,
Villupuram District.

2. The Deputy Superintendent of Police,
Ulundurpet,
Villupuram District.

3. The Inspector of Police,
Ulundurpet Police Station,
Ulundurpet,
Villupuram District.

4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.C.Paul Kanagaraj, Advocate, S.R.No.36029

CRL.OP.No.15196 of 2018

GSP(25/06/2018)

WEB COPY