



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2018

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD) No.5802 of 2018

M.Senthilkumar

... Petitioner

-Vs-

1. State of Tamil Nadu,
Represented by,
The Home Secretary,
State of Tamil Nadu,
Fort St.George,
Chennai-600009.

2. The District Collector,
Office of the District Collector,
Thanjavur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to consider the representation submitted by the petitioner dated 15.02.2018 and pass order under Section 197 of Criminal Procedure Code in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.R.Alagumani

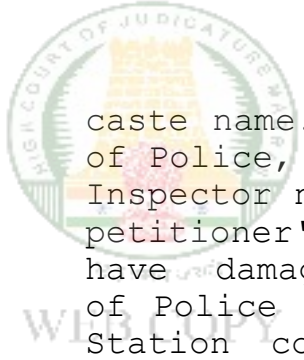
For Respondents : Mr.V.Anand

Government Advocate

O R D E R

This petition has been filed to direct the respondents to consider the representation submitted by the petitioner dated 15.02.2018 and pass order under Section 197 of Cr.P.C.

2.The learned counsel for the petitioner has submitted that on 20.10.2017 at about 6.00 a.m., some accused persons have attacked the petitioner's relative namely Daivanathan and his wife Sumathi and caused grievous injuries and they were admitted as inpatients in Pattukottai Government Hospital. He further submitted that the Sub-Inspector of Police namely Chandrasekaran failed to receive the complaint and he compelled them to sign in the blank papers and when they refused to sign, he criminally intimidated them by saying their



caste name. He further submitted that on 22.10.2017, the Inspector of Police, Adhirampattinam Police Station, Thiagarajan, Special Sub Inspector namely Chandrasekar and Constable Elangovan instigated the petitioner's rivals to attack petitioner's house. Accordingly, they have damaged the household articles. On 27.10.2017, the Inspector of Police and other police officials of the Adhirampattinam Police Station compelled the petitioner to withdraw the complaint or otherwise they will foist a false case against them and the police officials illegally detained them from 5.00 p.m. to 9 p.m.

3.He further submitted that on 28.09.2017, the Special Sub Inspector of Police demanded money on behalf of the Inspector of Police and criminally intimidated the petitioner. On 04.11.2017 at about 6.00 a.m., the Inspector of Police, Sub Inspector, Constable and three police officials trespassed into the petitioner's house and attacked the petitioner and his wife. Hence, the petitioner has sent representations on 09.12.2017 and 30.12.2017 to the respondents and other higher officials but so far, no action has been taken. Hence, the petitioner has filed a private complaint before the first Additional Sessions Judge (PCR), Thanjavur in CrI.M.P.No.277/18 and the same is pending. He further submitted that the learned first Additional Sessions Judge (PCR), Thanjavur has instructed the petitioner to get sanction for taking cognizance of the case against the Inspector of Police, Sub Inspector of Police and Constable and hence, the petitioner requests this Court to give directions to the respondents herein to consider the petitioner's representation and grant sanction under Section 197 of Cr.P.C.

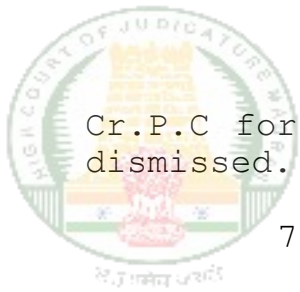
4.The learned Government Advocate for the respondents has denied the allegations made in the petition against the police officials. He further submitted that based on the complaint given by the petitioner, a case has been registered against the rival groups and hence, the petitioner may not have any grievance against the police officials.

5.Section 197 of Cr.P.C, reads as follows:

"197. Prosecution of Judges and public servants-

(1) When any person who is or was a judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction".

6.From the above said Provisions, it is clear that sanction from the Government is necessary for prosecuting the public servants who can be removable by the Government. According to the petitioner, the accused persons are the Inspector of Police, Special Sub Inspector of Police and Constable. No doubt, they are public servants, but they are not removable from their office by the Government and hence, no sanction is necessary under Section 197 of



Cr.P.C for prosecuting them. Hence, this petition is liable to be dismissed.

7. In the result, the petition is dismissed. No costs.

WEB COPY

Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

1. The Home Secretary,
State of Tamil Nadu,
Fort St.George,
Chennai-600009.
2. The District Collector,
Office of the District Collector,
Thanjavur District.

RMI

TE/KK/SAR-1 : 13/04/2018 : 3P/3C

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