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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 24.08.2018

DELIVERED ON : 30.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Cr1.O.P(MD)No.5443 of 2015

R.Rajendran : Petitioner

Vs.

1.State through
the Home Secretary,
Secretariat, Chennai - 600 009.

2.The Director,
Central Bureau of Investigation,
5-B, CGO Complex,
Lodhi Road, New Delhi - 110 003.

3.The Joint Director,
Central Bureau of Investigation,
IIIrd Floor, EVK Sampath Building,
College Road, Chennai - 600 006.

4.The Director General of Police,
Tamil Nadu State,
Fore Share Estate,
Beach Road, Chennai - 600 004.

5.The District Superintendent of Police,
Virudhunagar District,
Virudhunagar.

6.The Inspector of Police,
Sivakasi Town Police Station,
Sivakasi, Virudhunagar District.

: Respondents/
Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, praying to direct the respondents to register a case based on the complaint given by the petitioner dated 06.03.2015 and consequently direct the respondents 2 and 3 to conduct investigation and file the final report in accordance with law.



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For Petitioner

: Mr.T.Lajapathi Roy

For Respondents
1 and 4 to 6

: Mr.K.Chellapandian,
Additional Advocate General
assisted by Mr.A.Robinson,
Government Advocate (Crl. Side).

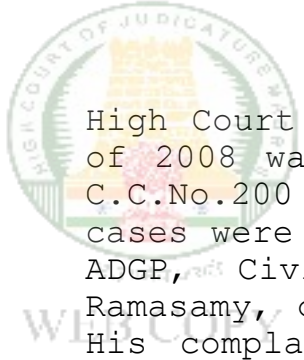
For Respondents 2 and 3

: Mr.N.Nagendran,
Special Public Prosecutor for CBI cases.

ORDER

This petition is filed praying to direct the respondents to register a case based on the complaint given by the petitioner dated 06.03.2015 and consequently direct the respondents 2 and 3 to conduct investigation and file the final report in accordance with law.

2.The case of the petitioner is that he is the proprietor of a lodging house by name 'Aryas Mansion' at No.9-A, Sattur Road, Sivakasi, Virudhunagar District. He lent Rs.10 lakhs to his friend Subaidhar, son of Samsudheen for the purpose of running his theatre, by name, Olympic Theatre. Without discharging the debt, Subaidhar sold the property to P.S.R. Engineering College, run by P.S.R.Solaisamy and P.S.R.Ramadoss. Subaidhar later in the year 2003, filed a petition for insolvency. Since P.S.R. Engineering College had purchased the property of Subaidhar and promised to discharge his liabilities, the revision petitioner approached them to discharge the debt of Subaidhar. They are close relatives of Mr.Radhakrishnan, ADGP, Civil Supplies C.I.D. Therefore, they threatened him at pistol point. On the instigation of Mr.Radhakrishnan, ADGP, Civil Supplies C.I.D., the Sivakasi Town Police Station, Sub-Inspector Kalai Kathiravan threatened the petitioner to return back the original cheque issued by Subaidhar. The petitioner refused to return the cheque and gave complaint to the District Superintendent of Police, Virudhunagar District on 23.09.2003. Knowing that a complaint has been filed against P.S.R.Solaisamy and P.S.R.Ramadoss, their relative Mr.Radhakrishnan, ADGP, Civil Supplies C.I.D., instructed the local police to foist a case under Wildlife Protection Act and NDPS Act, as if from his hotel room No.12, Deer Skin, Deer horns and 2 kilograms of heroin were seized. He was arrested and remanded to prison for 45 days. After he came out on bail, Inspector Ramasamy has foisted two more cases against him in Crime Nos.799 of 2005 and 378 of 2007. It is alleged that at the instigation of Mr.Radhakrishnan, ADGP, Civil Supplies C.I.D., the local police registered criminal cases against him with false allegations. The case in Crime No.799 of 2005 filed against the petitioner was dropped as 'mistake of fact'. His petition to dispose of the case registered in Crime No.507 of 2005 and to transfer the investigation to some other investigating agency, was dismissed on the report of the respondent that action against the petitioner was dropped. The other criminal case registered against him in Crime No.378 of 2007 was quashed by the



High Court in CrI.O.P(MD)No.7931 of 2008. The case in Crime No.953 of 2008 was tried by the learned Judicial Magistrate, Sivakasi in C.C.No.200 of 2009, ended in acquittal on 19.03.2013. All these cases were foisted against him on the influence of Mr.Radhakrishnan, ADGP, Civil Supplies C.I.D., D.S.P. Saravanan and Inspector Ramasamy, on the instigation of P.S.R.Solaisamy and P.S.R.Ramadoss. His complaint against the respondents alleging attempt to commit murder on 31.08.2013 was registered in Crime No.780 of 2013, later action was dropped in favour of the accused persons. A brutal attempt to kill him was made by the goondas engaged by P.S.R.Solaisamy and P.S.R.Ramadoss. A case is registered in Crime No.526 of 2014 and the same is pending investigation. On his complaint given to Assistant Superintendent of Police on 18.08.2014 and 26.09.2014 to the District Superintendent of Police, investigation was conducted by Assistant Superintendent of Police, which has disclosed illegal activities of the Inspector and others. He requested the District Superintendent of Police to transfer the case registered against him to some other specialised investigation agency. However, the District Superintendent of Police, Mr.Mageshwaran, colluding with P.S.R. Owners, did not initiate any action upon the report of Assistant Superintendent of Police.

3.In his complaint, he has further alleged that the Additional Director General of Police, Civil Supply C.I.D. Radhakrishnan, who is the real owner of P.S.R. Group of institutions and had invested Rs.8 crores in the said group, was instrumental to register cases against him. Therefore, he had given complaint to the first respondent, fourth respondent and Chief Minister's Special Cell against the police officials and the owners of P.S.R. Group. Under the said circumstances, he seeks a direction to the 2nd and 3rd respondents to register the case based on the complaint given by him on 06.03.2015 and investigate and file a final report.

4.In the grounds of petition, he has stated the following reasons for such a prayer:

"a)The 6th Respondent earlier without proper investigation, and in biased manner with the compulsion of the superiors officers as mentioned in the Petitioner's representation dated 06.03.2015 closed the case in Crime No.507 of 2005 against law.

b)The 6th Respondent did not brought the true facts culled out of the investigation in crime No.507 of 2005.

c)The 6th Respondent did not able to produce the contrabands in the case in Crime No.507 of 2005, which reveals that the case in Crime No.507 of 2005 was registered against the Petitioner due to the compulsion of the superior officers.

d)The 6th Respondent Police having not played any fair role, as such in pursuant of the complaint given by the Petitioner a discreet enquiry was conducted by the ASP, and found that the case in crime No.507 of 2005 and other connected cases was not bonafide one but to satisfy the



superiors.

e)The 5th Respondent Police did not consider the discreet enquiry report by the ASP dated 13.11.2004 & 08.12.2014 and close the entire case as if there is no materials. Because, the 5th Respondent, the Superintendent of Police Mr.Maheswaran is also colluded.

f)The 5th Respondent Police having a hesitation to bring the true facts emerged out of the case in Crime No.507 of 2005 and the subsequent F.I.Rs. as against the petitioner, which is nothing, but to shelter the action against the superiors officers who had instigated the 6th Respondent to register the false case against the petitioner and misused the law and order machinery for their own personal purpose and motive.

g)The 6th Respondent's investigation is totally a biased one and they are acting in favour of the proposed accused as per the petitioner's representation dated 06.03.2015".

5.In support of his submissions, the petitioner has enclosed the orders passed by this Court, his complaint to the Assistant Superintendent of Police, Sivakasi, report of the Assistant Superintendent of Police, dated 08.12.2014 and other documents in connection with this case. The report of Assistant Superintendent of Police has concluded that the allegations made by the petitioner against several police officers require thorough further enquiry. Since, Sivakasi Sub Division Police officer does not possess the wherewithal to conduct such an exhaustive enquiry, the Assistant Superintendent of Police has requested the Superintendent of Police, to forward his report to the chief officer to conduct a detailed enquiry by a specialised investigating agency. The report of Assistant Superintendent of Police addressed to Superintendent of Police, Virudhunagar, but no action taken, hence the present petition to change the investigation.

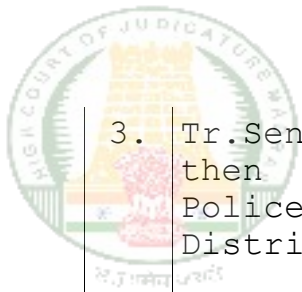
6.On the direction of this Court, the sixth respondent filed a detailed counter about the falsity of the allegation and enquiry report of the Superintendent of Police upon the complaint of the petitioner, dated 06.03.2015. The Director General of Police after considering the action taken upon the complaint of the petitioner has opined that no further action need to be taken on the report. Five cases were instituted against the petitioner. The following facts are extracted in the counter:

S.N o.	Station & Cr.No.	Section of law	Nature of Disposal
1.	Sivakasi Town PS Crime No.755/2005	448, 294(b), 506(ii) IPC	The case referred as mistake of fact.

2.	Sivakasi Town PS Crime No.378/2005	148, 447, 427, 323, 506(ii) IPC	This case was quashed by this Hon'ble Court in Crl.O.P.No.7931/2008 on 27.01.2010.
3.	Sivakasi Town PS Crime No.953/2008	509, 355, 294(b), 336, 506(ii) IPC	This case in CC.No.200 of 2009 ended in acquittal on benefit of doubt.
4.	Sivakasi Town PS Crime No.779 of 2013	294(b), 324, 506(ii) IPC	This case in CC.No.310 of 2014 ended in acquittal on benefit of doubt on 02.11.2017.
5.	Sivakasi Town PS Crime No.507/2005	49(a) r/w 51(1) Wild life Animal Protection Act, 1972 and 8(c) r/w. 20(b) (II) (B) NDPS Act	The case was action dropped and the RC is filed in EC court Pudukkottai and the order of the court is awaited.

7.The learned Additional Advocate General III appearing for the respondents 1 and 4 to 6 has submitted a sealed cover to the Court, wherein the action taken by the Director General of Police against the police personnels upon the complaint of the petitioner herein, is also submitted. From the communication of the Director General of Police, the following action has been taken against the erred police officials regarding the complaint made by the revision petitioner.

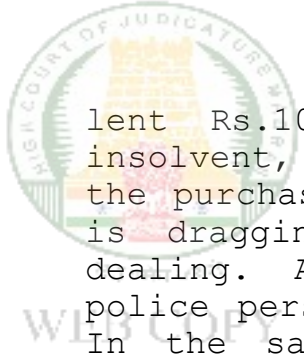
Sl. No.	Name and Designation of the delinquent	PR initiated	Details of disposal
1.	Tr.P.Saravanan, IPS, Superintendent of Police, Cuddalore District. (formerly Deputy Superintendent of Police, Sivakasi, Sub Division, Virudhunagar District).	-----	Warning memo was issued and the same was acknowledged by him on 16.03.2016.
2.	Tr.Ramasamy, Dy. Superintendent of Police, DCB, Dharmapuri. (formerly Inspector of Police, Sivakasi Town PS), Virudhunagar District.	97/10 u/r 3(1) of TNPSS (D&A) Rules 1955.	Awarded "Deferred censure for three months" by the Superintendent of Police, Virudhunagar District in P.R.No.97/10 u/r 3(a) of TNPSS (D&A) Rules 1955.



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3.	Tr.Senkuttuvan, the then Inspector of Police, Virudhunagar District.	18/2016 u/r 3 (b) of TNPSS (D&A) Rules, 1955.	Awarded the punishment of "Removal from service" by the Deputy Inspector General of Police, Ramanathapuram Range, Ramanathapuram on 04.06.2018 in P.R.No.18/2016 u/r 3 (b).
4.	Tr.Robinson, the then Inspector of Police, Virudhunagar District.	19/2016 u/r 3 (b) of TNPSS (D&A) Rules, 1955.	"Further Action Dropped" by the Deputy Inspector General of Police, Ramanathapuram Range, Ramanathapuram on 04.06.2018 in P.R.No.19/2016 u/r 3 (b).
5.	Tr.Navaneethakrishnan, SSI of Police, formerly Malli PS, Virudhunagar District.	20/2016 u/r 3 (b) of TNPSS (D&A) Rules, 1955.	"Further Action Dropped" by the Deputy Inspector General of Police, Ramanathapuram Range, Ramanathapuram on 04.06.2018 in P.R.No.20/2016 u/r 3 (b).
6.	Tr.Kalai Kathiravan, SI of Police, formerly Sivakasi Town PS, Virudhunagar District.	-----	Though it was recommended to take departmental action against him, the Deputy Inspector General of Police, Madurai Range in his report dated 12.06.2017 had stated that the Superintendent of Police, Virudhunagar District in his report dated 20.03.2017 submitted that there was no witnesses and sufficient material evidences to deal with him in this matter and no further action was taken.

8.The grievance of the petitioner that all the cases foisted against him were at the instigation of Mr.Radhakrishnan, ADGP, Civil Supplies C.I.D., is found to be an imaginary and false complaint. The said Radhakrishnan is neither relative of P.S.R.Solaisamy or P.S.R.Ramadoss. He does not belong to the same sect of community. He is neither relative of the family of "British Bakery" or "Jeyaram Bakery" owners as alleged. Perusal of his complaint, it is very clear that the revision petitioner herein, who has alleged to have



lent Rs.10 lakhs to one Subaidhar, who was later became an insolvent, since he was not able to recover the money is attacking the purchasers of Subhaidhar's property. For the said purpose, he is dragging certain persons, who have no connection with the dealing. As far as the alleged high-handedness and false cases, the police persons concerned are dealt under departmental proceedings. In the said circumstances, this Court finds no merit in this petition. Hence, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

- 1.The Home Secretary,
Secretariat, Chennai - 600 009.
 - 2.The Director,
Central Bureau of Investigation,
5-B, CGO Complex,
Lodhi Road, New Delhi - 110 003.
 - 3.The Joint Director,
Central Bureau of Investigation,
IIIrd Floor, EVK Sampath Building,
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 - 4.The Director General of Police,
Tamil Nadu State,
Fore Share Estate,
Beach Road, Chennai - 600 004.
 - 5.The District Superintendent of Police,
Virudhunagar District, Virudhunagar.
 - 6.The Inspector of Police,
Sivakasi Town Police Station,
Sivakasi, Virudhunagar District.
 - 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +1CC TO MR.T.LAJAPATHI ROY ADVOCATE IN SR.NO.81349.
SMN
DS SV SAR-4:25.09.2018: 7P/9C