



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

CrI.O.P.(MD) No.11983 of 2016

M.Backiavalli

... Petitioner

-vs-

1. The Director General of Police,
O/o. the Director General of Police
No.601, Dr.Radhakrishnan Salai,
Mylapore, Chennai.

2. The Inspector General of Police,
South Zone, New Natham Road,
Madurai-2.

3. The Superintendent of Police,
Tuticorin District,Tuticorin.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the respondents to register a case against the accused persons on the basis of the petitioner's complaint dated 30.05.2016.

For Petitioner : Mr.Niranjana S.Kumar

For Respondents : Mr.D.Muruganandam
Addl. Govt. Pleader

Orders Reserved on	Orders Pronounced on
17.08.2016	29.08.2016

O R D E R

The wife of the injured, namely, Backiavalli has filed this petition, seeking direction to the respondents to register a case against the proposed accused persons, in respect of alleged offences committed against her husband in tune with the petitioner's complaint dated 30.05.2016.

2. A case has been registered on 29.05.2016 between 12:30hrs and 13.13hrs in Crime No.49 of 206 under Section 294(b) 353 and 307 IPC against the petitioner's husband Murugan based on the complaint of the Sub Inspector of Police, Thattaparai Police Station. In the complaint it is stated that on 29.05.2016 at about 12:00hrs, when the defacto complainant Paul Isac along with Special Sub-Inspector of Police Karunakara Pandian were on



patrolling duty, they enquired a person (Murugan) standing in suspicious circumstances; that the accused took out the hidden Aruval and used abusive language against those Police Officials and attempted to cause injury over the neck; when it was prevented by use of Lathi, when they attempted to catch hold of Murugan, he escaped. Only based on this complaint, the case has been registered against Murugan.

3. When the petitioner was produced before the Magistrate, the Magistrate has raised the question regarding the injury on the right leg of Murugan and he has stated that he has fallen in the step and he did not make any complaint against the Police. The remark of the Magistrate reads as under:

"Received at 09.15pm on 29.05.2016. the accused produced. Grounds of arrest explained. When asked about the injury on right leg, he said that when he was fall in the step in the step. No complaint against the Police on the materials."

4. The injured has been admitted in RHOCK Hospital, Tirunelveli on 09.06.2016 and discharged on 15.06.2016. The diagnosis by the Doctor is that there had been open fracture distal end femur with Hyperglycemia (Strees induced).

5. Alleging that this injury was caused by the Police Officials named therein in the complaint and seeking action against them, this petition has been filed.

6. In the representation dated 30.05.2016, the petitioner has stated that on 28.05.2016 (Saturday) at 06.00pm, when she was in the house along with her husband, Inspector Suresh Kumar along with other Police officials trespassed into her house and they dragged her husband by his shirt and when questioned about their conduct, they told her that they are going to break the leg of the petitioner's husband and later on, when she made enquiries in the Police Station, he was being continuously shifted and finally she was informed that case has been registered against her husband by Thattaparai Police. When she saw her husband in the Court, he was not in the position to walk and she was informed by her husband that his leg was broken by Police and only in order to escape from the offence committed, a false case has been registered against her husband that her husband was compelled to say before the Magistrate that the injury was sustained on account of fall and in case of failure, the petitioner's husband would be detained under Goondas Act and because of intimidation, her husband was not in a position to inform the truth before the Magistrate.

<https://hcservices.ecourts.gov.in/hcservices/>

7. Learned Additional Government Pleader appearing for the respondents would submit that this complaint was considered and



enquiry was conducted and finding had been given that the complaint is false.

8. Perusal of the report submitted by the Assistant Superintendent of Police would reveal that an enquiry has been conducted only by examining the Inspector of Police, Thenpakkam Police Station, Tuticorin. The nature of enquiry conducted is far from satisfactory.

9. The complaint has been made not exclusively against the Thenpakkam Inspector of Police, but also against some other Police Officials, who accompanied the Inspector. There is a specific allegation that only to cover up the injuries sustained by the petitioner's husband, a false case has been laid against her husband. The probability of this allegation has not been examined at all. The brutal beating is alleged as against the Inspector of Police, Pudukkottai and Police personnel accompanied by him. There is no reference about all those persons.

10. Neither the petitioner nor her husband has been examined. One would reasonably expect the enquiring officer to have examined the Doctor to find out what is the probable cause for the injuries, whether it is possible on account of falling or it is possible on account of beatings, probable time of the injuries, having been caused. The prosecution case suffers from many improbabilities. Whether a person with such a severe injury would have the courage enough to challenge the Police, who is armed with weapons. There is no enquiry with regard to these issues.

11. Under such circumstances, the enquiry report dated 05.07.2016 cannot be accepted and it is hereby set aside.

12. The Superintendent of Police, Sivagangai District is directed to conduct an enquiry in the light of the queries indicated above and to suggest further course of action to be taken, if any, and to file a report to this Court by one month (i.e.30.09.2016)

Post on **30.09.2016** for reporting compliance

Sd/

Assistant Registrar(Crl.Side)

/TRUE COPY/

Sub Assistant Registrar



To:

1. The Director General of Police,
O/o. the Director General of Police
No.601, Dr.Radhakrishnan Salai,
Mylapore, Chennai.
2. The Inspector General of Police,
South Zone, New Natham Road,
Madurai-2.
3. The Superintendent of Police,
Tuticorin District, Tuticorin.
4. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.

COPY TO:

The Superintendent of Police,
Sivagangai District.

ORDER IN
Crl.O.P.(MD) No.11983 of 2016
29.08.2016

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PA/GSV-PM/SAR I/31.08.2016/4P/6C (IT)