



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2018

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P (MD) No.19443 of 2018

Karthika

... Petitioner

-Vs-

1. The Commissioner of Police,
Madurai City, Madurai.
2. The Inspector of Police,
All Women Police Station,
Madurai City.
3. The Secretary,
Family Welfare Committee,
District Legal Services Authority,
District Court Complex,
Madurai.

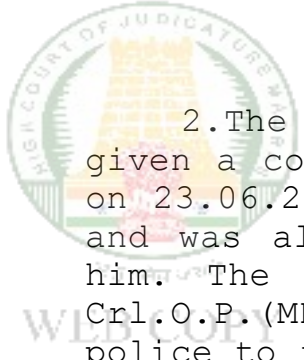
... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the third respondent to refer back the petitioner's mother's complaint dated 26.06.2018 made on behalf of the petitioner to the file of the second respondent for proceeding further in accordance with the chapter XII of the Cr.P.C. forthwith particularly within the time stipulation as prescribed by this Court.

For Petitioner	: Mr.R.Anand
For Respondents	: Mr.B.Bhagawathi, Government Advocate.

ORDER

This petition has been filed for a direction to the Family Welfare Committee to refer back the complaint, dated 26.06.2018, made on behalf of the petitioner to the file of the second respondent.



2.The petitioner is the victim on whose behalf the mother has given a complaint before the second respondent to the effect that on 23.06.2018, the petitioner was assaulted by her husband Rakesh and was also burnt with Cigarette butt and was also abused by him. The petitioner's mother, approached this Court by filing Crl.O.P.(MD)No.12417 of 2018 for a direction to the respondent police to register a case based on the complaint dated 26.06.2018.

3.This Court by an order dated 23.07.2018, took into consideration, the judgment of the Hon'ble Supreme Court in **Rakseh sarma & others Vs. State of U.P. and others reported in 2017 AIR (Criminal) 796** and also the submission made by the learned Government Advocate (Criminal Side) to the effect that the matter has been referred to the Family Welfare Committee and dismissed the Criminal Original Petition.

4.The grievance of the petitioner is that even in the judgment of the Hon'ble Supreme Court in **Rakseh sarma & others Vs. State of U.P. and others**, the Hon'ble Supreme Court has categorically held that the directions given by the Supreme Court will not apply to the offence involving tangible physical injuries.

5.The learned counsel for the petitioner would submit that the complaint given by the petitioner's mother, clearly reveals the fact that there are tangible physical injuries that was caused to the petitioner by her husband. The learned counsel would further submit that the protection was given by the Hon'ble Supreme Court only in order to ensure that the in-laws are not unnecessarily roped in a dispute between the husband and wife.

6.The second respondent police cannot keep the case pending for ever on the ground that the matter has been referred to the Family Welfare Committee. In this case, there is a specific allegation against the husband, who has caused physical injury and also has abused the petitioner. Therefore, nothing stops the second respondent from proceeding further in this case in accordance with law, insofar as the husband is concerned. A husband, who caused physical, tangible injuries to the wife cannot escape from its consequences by referring to the guidelines given in **Rakseh sarma & others Vs. State of U.P. and others** and in such cases, it is the duty of the police to register an F.I.R. since the very judgment of the Hon'ble Supreme Court makes it very clear that the directions will not apply to the case where there is a specific tangible injury caused to the wife.

7.In view of the above, a direction is given to the second respondent to proceed further against the husband in accordance with law. The enquiry before the Family Welfare Committee can proceed parallelly without prejudice to the registration of F.I.R by the second respondent.



8. With the above directions, this Writ Petition is disposed of. No costs.

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Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Commissioner of Police,
Madurai City, Madurai.
2. The Inspector of Police,
All Women Police Station,
Madurai City.
3. The Secretary,
Family Welfare Committee,
District Legal Services Authority,
District Court Complex,
Madurai.

+ 1 CC TO Mr.R.ANAND, ADVOCATE IN SR No. 84012
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 83712

LS

TE/PM/SAR-3 : 05/10/2018 : 3P/6C

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