



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2018

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THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.P.(MD) No.17678 of 2017

Shanmugavelsamy

... Petitioner

-Vs-

1. The State of Tamil Nadu,
rep. by its Home Secretary (Police),
Secretariat, Chennai.
2. The Director General of Police,
DGP Office, Chennai.
3. The Superintendent of Police,
Tirunelveli, Tirunelveli District.
4. The Inspector of Police,
Kalakkad Police Station,
Tirunelveli District.
(Crime No.60 of 2013)

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the first respondent to consider the petitioner's representation, dated 03.05.2017, and consequently accord sanction for prosecution within the time frame stipulated by this Court.

For Petitioner : Mr.P.Samuel Gunasingh

For Respondents : Mr.V.Anand,
Government Advocate.

ORDER

This writ petition has been filed to direct the first respondent to consider the petitioner's representation, dated 03.05.2017, and accord sanction for prosecution.

2.The learned counsel for the petitioner has submitted that a civil suit is pending between the petitioner and one Rajalingam. The petitioner submitted that on 23.01.2012 at about 05.00 a.m., the petitioner and his wife were riding in a two wheeler to Valliyoor



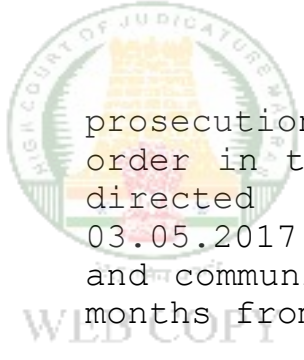
to purchase things and when they were nearing Valliyoor the said Rajalingam and his two sons, namely, Yeusdasan, Rajkumar and one Athisiyaraj stopped them and assaulted them and also snatched the two wheeler and a sum of Rs.37,485/- from the petitioner. He further submitted that the aforesaid persons tied the hands of the petitioner and took him to Valliyoor and as per the directions of one Mr.Govindaraj, the erstwhile Deputy Superintendent of Police, produced him, before the Valliyoor Police Station and the petitioner was remanded in Crime No.678 of 2011.

3.He further submitted that the petitioner has filed Crl.O.P. (MD)No.7415 of 2012, praying to direct the third respondent to examine the petitioner in person, in respect to the averments made in the complaint and to take further action. But, there is no progress and hence, the petitioner again filed in Crl.O.P(MD) No.15015 of 2012 on the file of this Court and at the time of hearing, the learned Government Advocate (Criminal side) submitted that based on the complaint given by the petitioner, a case in Crime No.60 of 2013, under Sections 341, 294(b), 394, 365 and 105 IPC, has been registered against the accused and recording the said submission, the said petition was closed with a direction to the respondents to investigate upon the same as expeditiously as possible.

4.He further submitted that subsequently, the fourth respondent has filed a charge sheet deleting the name of the police officials and hence, the petitioner has filed a protest petition against the removal of the names of the police officials in the charge sheet. He further submitted that since one of the accused, namely, Mr.Govindaraj, is working as Deputy Superintendent of Police, as per section 197 of Cr.P.C. a sanction is necessary for prosecuting him and hence, the petitioner has submitted his representation on 03.05.2017 before the first respondent, but so far, no order has been passed.

5.The learned Government Advocate appearing for the respondents has submitted that since already the fourth respondent has filed a charge sheet deleting the name of police officials, granting of sanction does not arise.

6.Admittedly, the petitioner herein gave a complaint against six persons, including three police officials and a case has also been registered by the fourth respondent in Crime No.60 of 2013 under Sections 341, 294(b), 394, 365 and 105 IPC. After investigation the fourth respondent has filed a charge sheet deleting the names of police officials and hence, the petitioner filed a protest petition. Since, one of the police officials, namely, Mr.Govindaraj is working as Deputy Superintendent of Police, as per section 197 Cr.P.C., sanction is necessary to prosecute him. Hence, the petitioner has submitted a representation before the first respondent to accord sanction for



prosecution, but so far, the first respondent has not passed any order in that representation. Therefore, the first respondent is directed to consider the petitioner's representation, dated 03.05.2017 and pass orders on merits and in accordance with law and communicate the same to the petitioner within a period of two months from the date of receipt of copy of this order.

7. With the above observations, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Home Secretary (Police),
Government of Tamil Nadu,
Secretariat, Chennai.
2. The Director General of Police,
DGP Office, Chennai.
3. The Superintendent of Police,
Tirunelveli, Tirunelveli District.
4. The Inspector of Police,
Kalakkad Police Station,
Tirunelveli District.

+ 1 cc TO Mr. P. Samuel Gunasingh, Advocate in SR No. 49087

+ 1 cc TO The Special Government Pleader in SR No. 49666

cp

AE/JC/SAR2/19.03.2018/3P/7C

W.P. (MD) No. 17678 of 2017
15.02.2018