



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 31.01.2018
PRONOUNCED ON: 28.03.2018
CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

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Writ Petition (MD) No.11204 of 2011

V.Kumaravel

... Petitioner

Vs.

1. The Director General of Police,
Government of Tamil Nadu,
Chennai.
2. Johngid,
ADGP,
Vigilance Officer,
Tamil Nadu State Transport Corporation,
Nagercoil.
3. Abaskumar,
Inspector General of Police,
Intelligence II,
Chennai.
4. Johnrose,
Deputy Superintendent of Police,
Metro Crime, Chennai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents 1 to 4 jointly to compensate Rupees One Crore for illegal detention and for the purpose of uplifting my social and department credibility in the interest of justice and equity.

(Prayer amended vide order dated 23.11.2017 in W.M.P(MD)No.16354 of 2017)

For Petitioner : Mr.S.Janath Ahmed
For 1st Respondent : Mr.B.Pugalendhi, AAG
assisted by Mr.Aayiram K.Selvakumar,
Additional Government Pleader.
For 2nd Respondent : Mr.Isaac Mohanlal,
Senior Counsel
for Mr.M.S.Sureshkumar
For 4th Respondent : Mr.M.Jeyakumar
For 3rd Respondent : No appearance

This writ petition has been filed seeking a direction to the respondents 1 to 4 jointly to pay compensation of Rupees One



Crone for illegal detention and for the purpose of uplifting the petitioner's social and department's credibility.

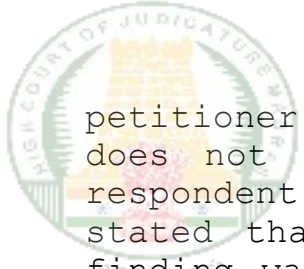
2.The case of the petitioner in brief is as follows:-

The petitioner was working as Sub Inspector of Police. The second respondent was the then Deputy Inspector General of Police, Madurai Range. The third respondent was the then Superintendent of Police, Virudhunagar District. Earlier, a false case has been foisted against the petitioner for the offence under Sections 353 and 506 (ii) IPC in Crime No.135 of 2000 on the file of the Soolakarai Police Station. The above criminal case has been filed against him for the alleged misbehaviour of the petitioner. In the meantime, since the petitioner was harassed and tortured by the respondents 2 to 4, he has given a detailed representation to the first respondent on 09.01.2002 and considering the said representation, the first respondent has directed the third respondent to withdraw the case in Crime No.135 of 2000. Accordingly, the said case was withdrawn. Thereafter, an enquiry was conducted by one Chenbaharaman, then Deputy Superintendent of Police, Madurai Range and submitted a report stating that a false case has been foisted against the petitioner. Apart from that the petitioner has also filed a writ petition before this Court in W.P(MD)No.7210 of 2006 to quash the punishment imposed on him. This Court, by order dated 23.04.2009 allowed the writ petition and observed that the registration of criminal case against the petitioner is a false one and the fourth respondent has acted in a high handed manner. Thereafter, the petitioner filed a petition before the Director General of Police, the first respondent herein for taking action against the fourth respondent for foisting the false case against him but no order has been passed by the respondents and the petitioner was further subjected to harassment and humiliation. In view of the false case foisted against the petitioner and he was illegally detained by the respondents, his credibility in the society has been spoiled. In the above circumstances, the petitioner has filed the present writ petition seeking compensation against the respondents.

3.The second respondent filed a counter affidavit stating that the allegation against the second respondent is very vague regarding the conspiracy and no specific details are produced by the petitioner to prove that the second respondent conspired with other respondents and the petitioner is levelling unsubstantiated allegations against the second respondent with ulterior motive and it is only an after thought. The enquiry report referred by the petitioner, there is no comment made against the second respondent and he has been wrongly arrayed as respondent in this case.

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

4.The third respondent has also filed a counter affidavit wherein it has been stated that the case filed against the



petitioner has been withdrawn only for internal arrangement and it does not confer any merit on the petitioner. It is the first respondent shown benevolence towards the petitioner. It is further stated that while permitting to withdraw the criminal case, no finding was given on merit in the criminal case and hence, based on that, the petitioner cannot claim that it is a false case.

5. So far as the registration of criminal complaint is concerned, while questioning a driver for coming late, the petitioner shouted in a high pitch in the camp office and abused him and the third respondent cannot be held responsible for unruly behaviour of the petitioner and if the petitioner alleges any harassment, it is for him to establish it by producing material evidence and the petitioner is not an Officer with clean hands and he has been dealt with departmental action many times within the short span of time and several punishments have also been imposed on him. Apart from that the petitioner has no prima facie case to file a writ petition invoking Article 226 of the Constitution of India.

6. The fourth respondent has filed counter affidavit inter alia contending that there is no cause of action for invoking Article 226 of the Constitution of India for claiming compensation. It is further stated that the alleged withdrawal of criminal case does not confer any merit on the petitioner nor throw any aspersions on the fourth respondent. The withdrawal of the case is only an internal arrangement between the petitioner and the respondents and he cannot take advantage on merit. Apart from that no finding is given against the respondents in the above criminal case. It is further stated that W.P(MD)No.7210 of 2010 has been filed only for quashing the charge memo against the petitioner and to enroll his name in the list of promotion which is nothing to do with the incidents alleged by the petitioner.

7. Heard Mr.S.Janath Ahmed, learned counsel appearing for the petitioner and Mr.B.Pugalendhi, learned Additional Advocate General appearing for the first respondent, Mr.Issac Mohanlal, learned Senior Counsel appearing for the second respondent and Mr.M.Jeyakumar, learned counsel appearing for the fourth respondent.

8. Learned counsel appearing for the petitioner submitted that the petitioner has been falsely implicated in this case and he has been harassed by the higher officials and due to the false case, he has been illegally detained by the authorities. In view of the withdrawal of the criminal case, it is clearly proved that false case has been foisted against the petitioner and consequently, he has been illegally detained by the respondents authorities and therefore, the petitioner is entitled for compensation. In support of his submissions, learned counsel appearing for the petitioner relied upon the following judgments:-



(i) In **Nilabati Behere (Smt.) Alias Lalita Vs. State of Orissa and others** reported in (1993) 2 SCC 746 and

(ii) In **Mehmood Nayyar Azam Vs. State of Chhattisgarh and others** reported in (2012) 8 SCC 1

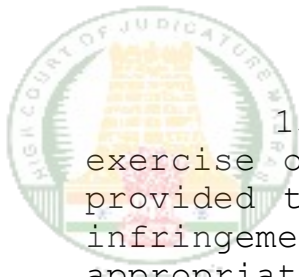
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9. Per contra, learned Additional Advocate General appearing for the first respondent submitted that the petitioner cannot maintain the writ petition seeking compensation as the issue involved in this writ petition are disputed question of facts and it is for him to approach the Civil Court to get appropriate relief by letting in evidence. The criminal case registered against the petitioner was withdrawn out of magnanimity and shown mercy on the petitioner, and the petitioner cannot claim that a false case has been registered against him and the petitioner has been in illegal detention. So far as the alleged harassment by the superior officials is concerned, absolutely there is no material to show that the petitioner was subjected to harassment, merely because the petitioner was transferred to various places, it would not amount to harassment.

10. I have considered the submissions made by the learned counsel appearing for the parties and perused the entire materials available on record meticulously.

11. The petitioner sought compensation mainly on the ground that a false case has been foisted against him and he was illegally detained by the fourth respondent. Apart from that he has been constantly harassed by his superior officials and he has been frequently transferred to various places by which the fundamental right of the petitioner has infringed and hence, he sought compensation. Admittedly, a criminal case has been filed against the petitioner and thereafter, he was arrested and he was under judicial custody for some time. Subsequently, the respondents withdrew the criminal case. By mere withdrawal of criminal case, the petitioner cannot claim that a false case has been foisted against the petitioner and the detention is also illegal.

12. As rightly contended by the respondents that there is no finding against the respondents by the Criminal Court that the case has been falsely foisted against the petitioner. So far as the alleged harassment by the superior officials is concerned, except vague averment made in the affidavit filed in support of this writ petition, there is no material available on record to show that the petitioner has been harassed by them. Merely because the petitioner was transferred to various places, it cannot be construed as harassment as the transfer is only administrative exigency of services.



13. It is settled law that compensation can be granted in exercise of power under Article 226 of the Constitution of India provided the petitioner should establish that there has been an infringement of his fundamental right and no other form of appropriate redressal by the Court. But in the instant case, the petitioner failed to establish that his fundamental right has been infringed.

14. The Hon'ble Supreme Court in **Nilabati Behere (Smt.) Alias Lalita Vs. State of Orissa and others** reported in (1993) 2 SCC 746 held as follows:-

"....The State, of course has the right to be indemnified by and take such action as may be available to it against the wrongdoer in accordance with law - through appropriate proceedings. Of course, relief in exercise of the power under Article 32 or 226 would be granted only once it is established that there has been an infringement of the fundamental rights of the citizen and no other form of appropriate redressal by the court in the facts and circumstances of the case, is possible."

15. In the above said circumstances, in the absence of any proof to show that the petitioner's fundamental is infringed by the respondents, the petitioner cannot seek any relief under Article 226 of the Constitution of India. I find no merit in the writ petition and accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

The Director General of Police,
Government of Tamil Nadu,
Chennai.

+1cc to Mr.S.Janath Ahmed, Advocate Sr.No.58863
+1cc to Mr.M.S.Sureshkumar, Advocate Sr.No.58661
+1cc to Spl.Government Pleader Sr.No.59223

SMS

VB/SKN/RSK/SAR4/17/04/2018/5P/5C