

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CrI.O.P.No.1080 of 2019

D.Maheswari

...Petitioner

Vs.

The State by:

1.The Additional Director General of Police,
(Social Justice & Human Rights) Office the ADGP
Kamarajar Road, Mylapore,
Chennai-600 004.

2.The Commissioner of Police,
Office of the Commissioner of Police,
(Greater City of Chennai),
E.V.K.Sampath Salai, Vepery,
Chennai-600 007.

3.The Asst. Commissioner of Police,
Office of the Assistant Commissioner of Police,
M.K.B. Nagar Police Station,
M.K.B.Nagar, Chennai-600 039.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to direction to the 1st and 2nd respondent directing the 3rd respondent to recall the notice issued to the petitioner in the reference cited in the notice(1) No.C.90/DCP(P)/Camp/SHRC/2018 and (2) C.No.39/AC/MKB/SHRC/2018 and directing to forward the complaint to the competent authority for fair and proper enquiry in connection with S.H.R.C No.2329 of 2018 pending on the file of the State Human Rights Commissioner Tamil Nadu.

For Petitioner : Mr.P.K.Murali

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking for a direction to the 3rd respondent to recall the notice issued to the petitioner.

2. It is seen from records that the petitioner has given a complaint before the State Human Rights Commission against the Inspector of Police, P-6, Kodungaiyur Police Station, Chennai and the same has been taken on file in S.H.R.C. No.2329 of 2018. For this purpose, a report has been sought for from the 3rd respondent which will be submitted before the State Human Rights Commission. For this purpose, 3rd respondent has issued a summon to the petitioner asking her to appear and give her statement.

3. The learned counsel for the petitioner would submit that the 3rd respondent is prejudiced and he is supporting the Inspector against whom the complaint has been given before the State Human Rights Commission. The learned counsel would further submit that even as per the letter issued by the Government of Tamil Nadu dated 04.03.2004, only a higher level officer should examine the report of the junior officers and make their comments while forwarding the report to the Human Rights Commission. By pointing out to this letter, the learned counsel would submit that the enquiry should be conducted by an officer not less than a rank of Joint Commissioner.

4. The learned Additional Public Prosecutor on instructions would submit that the 2nd respondent namely the Commissioner of Police has directed the 3rd respondent to conduct the enquiry and to submit a report in order to place the report before the State Human Rights Commission. Pursuant to the directions of the Commissioner of Police, the 3rd respondent has called the petitioner for an enquiry. Therefore, the learned counsel would submit that the petitioner based on mere apprehension cannot prevent the 3rd respondent from conducting the enquiry and submitting the report before the 2nd respondent.

5. This Court has carefully considered submission made on either side and also perused the materials available on record.

6. On a perusal of the records, it is seen that the Inspector of Police, Kodungaiyur Police Station had registered an FIR against the petitioner's husband and had also arrested him. Aggrieved by the alleged illegal arrest, the petitioner had given a complaint before the State Human Rights Commission. In this regard, a report has to be submitted by the police before the State Human Rights Commission. Therefore, the 2nd respondent has directed the 3rd respondent to conduct an enquiry and to submit a report. The 3rd respondent has accordingly issued summons to the petitioner to attend for enquiry. This summon is sought to be challenged on the ground that the 3rd respondent is biased.

7. Except for the apprehension of the petitioner, there is no other material to show that the 3rd respondent is conducting the enquiry in a biased manner. That apart the entire dispute is going to be decided only by the State Human Rights Commission based on the materials placed before it. The report prepared by the 3rd respondent will also be one piece of evidence before the Human Rights Commission and it does not completely bind the commission to entirely follow the report. The Human Rights Commission has to necessarily independently assess the report given by the 3rd respondent.

8. In view of the apprehension raised by the petitioner, the petitioner is directed to submit his explanation in writing before the 3rd respondent and petitioner is also permitted to send a copy of the explanation by Registered Post. The 3rd respondent based on the explanation given by the petitioner, shall proceed further to prepare a report to be submitted before the State Human Rights Commission. Thereafter, it is for the Human Rights Commission to take note of all the materials placed before it, in order to come to a final conclusion.

9. With the above direction, this Criminal Original Petition is disposed of.

s/d-

Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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To

1. The Additional Director General of Police,
(Social Justice & Human Rights) Office the ADGP
Kamarajar Road, Mylapore,
Chennai-600 004.

2. The Commissioner of Police,
Office of the Commissioner of Police,
(Greater City of Chennai),
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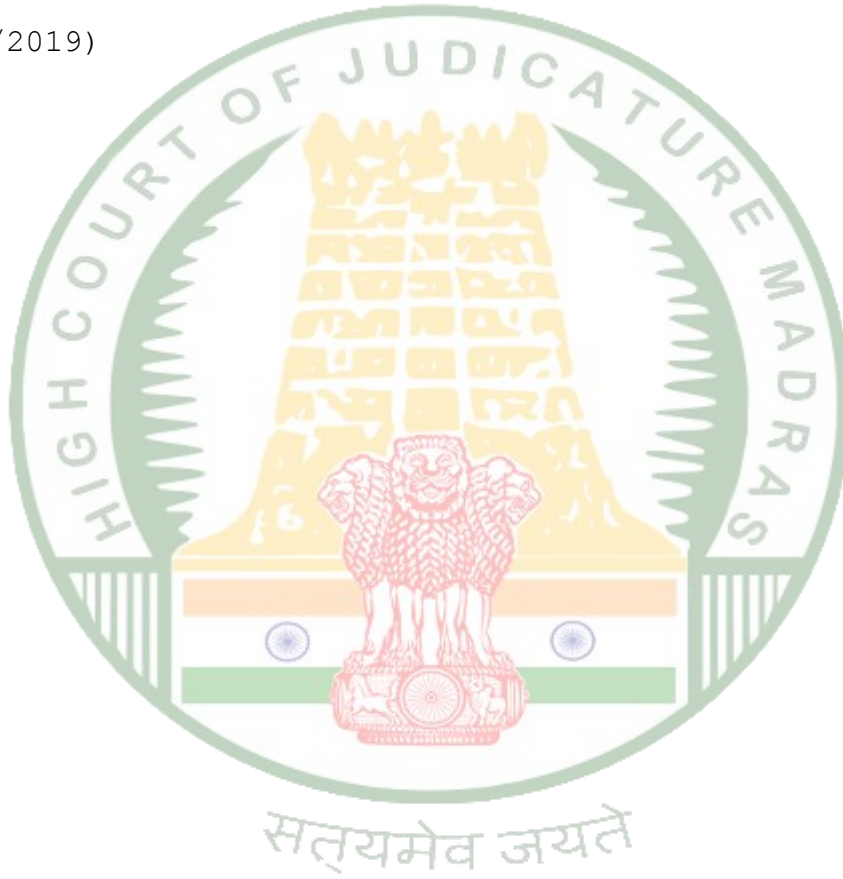
3. The Asst. Commissioner of Police,
Office of the Asst. Commissioner of Police,
M.K.B. Nagar Police Station,
M.K.B.Nagar, Chennai-600 039.

4.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.P.K.Murali, Advocate sr 3650.

Cr1.O.P.No.1080 of 2019

KAN(CO)
SP(06/02/2019)



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