

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.1536 of 2018

L.Duraivelu

... Petitioner

Vs.

1.The Secretary,
Home Department,
Fort St. George,
Chennai - 600 009.

2.The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

3.The Inspector of Police,
G-5, Choonammedu Police Station,
Kancheepuram District.

4.Madasamy,
Special Sub-Inspector of Police,
G-5, Choonammedu Police Station,
Kancheepuram District.
Presently working
Sub Inspector of Police,
Acharapakkam Police Station,
Kancheepuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 2 and 3 to take appropriate departmental action against the 4th respondent herein on the basis of the letter to the 2nd respondent dated 12.05.2017 for his willful, abuse of his post in closing the petitioner's complaint dated 28.08.2016 which was received and acknowledged on 02.09.2016 and closed without enquiry.

For Petitioner : Mr.G.T.Subramanian

For Respondents : Mr.A.N.Thambidurai
Special Government Pleader

O R D E R

The relief sought in the present writ petition is for a direction to direct the respondents 2 and 3 to take appropriate departmental action against the 4th respondent herein, on the basis of the letter to the 2nd respondent, dated 12.05.2017, for his willful abuse of his post in closing the petitioner's complaint dated 28.08.2016, which was received and acknowledged on 02.09.2016, without conducting enquiry.

2.The learned counsel for the writ petitioner states that the petitioner is owning a poultry shed at Vennangupattu. The petitioner is running a poultry farm on contract basis for growing birds. On account of certain disputes in respect of his business transactions, the writ petitioner submitted a complaint before the 3rd respondent on 02.09.2016 and a CSR was given by the Police Station Officer/4th respondent, however, no action was taken. On account of his continuous efforts, the writ petitioner came to understand that the 4th respondent, who was handling the case, colluded with the accused and had closed the complaint on 02.09.2016 itself, as if the matter was settled. The petitioner states in his affidavit that, no enquiry was conducted and he was not at all called by the officers concerned for any enquiry. The 4th respondent had unilaterally closed the complaint given by the writ petitioner, even without conducting any enquiry. Thus, the petitioner submitted a complaint to the 3rd respondent on 18.04.2017, through registered post. Even thereafter, no action was taken. Thus, the petitioner is constrained to move the present writ petition.

3.The learned counsel for the writ petitioner states that, closing of the complaint filed by the writ petitioner is in violation of the procedures and that has been done by the 4th respondent at the instance of the accused. Thus, action is to be warranted against the official in this regard.

4.Pursuant to the direction of this Court, the learned Special Government Pleader submitted the case diary relating to Crime No. 29 of 2018. On a perusal of the case diary, an undated and improperly addressed letter, sent by the writ petitioner is tagged at the end of the file. The signature of the writ petitioner is not matching with the signature, put in the complaint, as well as in the affidavit, filed in support of this writ petition in W.P.No.1536 of 2018. The compromise letter now enclosed along with the case diary is found as a last paper in the case diary. The address of the writ petitioner itself is not clear. No date is available in the letter. Person who had written the letter is also not known. On account of such doubtful circumstances, this Court further provided an opportunity to the learned Special Government Pleader to find

out the truth behind the settlement and the letter.

5. Even today, the learned Special Government Pleader is unable to establish that the compromise had been properly recorded by the Station Officer during the relevant point of time and there are no other materials available on record, except the letter given by the writ petitioner, now enclosed in the last page of the case diary. Today, the 4th respondent is also present before this Court. However, there is no specific explanation in respect of the allegations set out in the writ petition by the 4th respondent.

6. In view of the fact that the signature obtained in the letter itself is doubtful and there is no convincing explanation on the part of the 4th respondent, this Court is of an opinion that an enquiry is to be conducted by the Superintendent of Police, in order to initiate all further actions.

7. The learned Special Government Pleader brought to the notice of this Court that there are variations between the original complaint given by the writ petitioner and the subsequent complaint. However, all these aspects are to be enquired into, by the Superintendent of Police or by an officer authorised by the District Superintendent of Police, Kancheepuram District, Kancheepuram.

8. In view of the fact that there is some substance in the complaint, made by the writ petitioner in the present writ petition, the 2nd respondent is directed to conduct an enquiry in respect of the allegations raised by the writ petitioner against the 4th respondent and thereafter, initiate appropriate actions against the official, if there is any lapse, negligence or dereliction of duty or otherwise, in accordance with law. The said exercise shall be done within a period of eight weeks from the date of receipt of a copy of this order.

With these directions, the writ petition is disposed of.
No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

mkn

To

1.The Secretary,
Home Department,
Fort St. George,
Chennai - 600 009.

2.The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

3.The Inspector of Police,
G-5, Choonammedu Police Station,
Kancheepuram District.

+lcc to Mr.G.T.Subramanian, Advocate, S.R.No. 1443
+lcc to the Government Pleader, S.R.No. 15136

W.P.No.1536 of 2018

RSI (CO)
GN(14/03/2019)



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