



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD) No.15095 of 2015

and

M.P(MD) No.1 of 2015

S.Chandran

... Petitioner

VS

1.The Superintendent of Police
Sivagangai District

2.Ponragu
The Inspector of Police
Taluk Police Station
Sivagangai District

2.Gnanasekaran,
The Sub Inspector of Police
Taluk Police Station
Sivagangai District

... Respondents

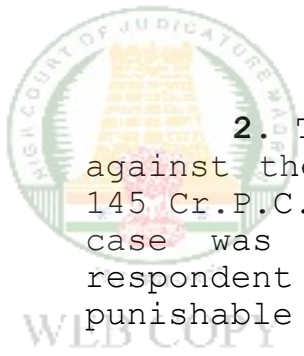
PRAYER: Writ petition filed under Article 226 of the Constitution of India, for issuance of a writ of mandamus directing the first respondent to take the departmental proceeding against the erring officer the respondents 2 and 3 and consequently directing the 2nd and 3rd respondents to stop registering false case against the petitioner, based on his representation dated 04.08.2015.

For Petitioner : Mr.M.Subash Babu

For Respondents : Mr.S.Dhayalan
Government Advocate for R1
No appearance for R2 & R3

ORDER

The relief sought for in the present writ petition is for a direction to the first respondent to take departmental disciplinary proceedings against the erring officers / respondents 2 and 3 and consequently, to direct them not to register false cases against the petitioner, based on his representation dated 04.08.2015.



2. The respondents 2 and 3 have registered a criminal case as against the writ petitioner in Crime No.65 of 2013, under Section 145 Cr.P.C. After conducting an investigation, yet another criminal case was registered in Crime No.320 of 2013, by the second respondent as against the writ petitioner, for the offences punishable under Sections 447 and 380 I.P.C.

3. The issue arose on account of certain property disputes between the writ petitioner with his blood brother. A complaint was given before the respondent Police as against the writ petitioner and on enquiry, the criminal case was registered under Sections 447 and 380 I.P.C. The conduct of the Police Officer on duty cannot be questioned in a routine manner. If the Police Officer acts in violation of the rule of law, then alone, the conduct of the Police Officer concerned can be questioned and not otherwise. On receipt of any complaint, if the Police Officer found that there is a *prima facie* allegation warranting registration of a criminal case, then, the Police Officer is duty bound to act immediately by following the procedures contemplated under law.

4. The recent trend prevailing across the State of Tamil Nadu is that whenever a criminal case is registered by the competent Police Officer, the accused persons or some of their relatives are attempting to threaten the Police officials by stating that they will prefer a complaint against such Police officials before the Higher Officials or they will file writ petitions seeking directions to the authorities competent to initiate departmental disciplinary proceedings against the Police Officials. Such an action by the persons against whom criminal complaints are registered cannot be encouraged by the Courts. The facts and circumstances are important and only in the event of violation of the rule of law, actions can be initiated and in other circumstances, no such actions can be initiated. The Public Servants / Police Officers must be allowed to perform their respective duties and responsibilities in the manner known to law. In the event of preventing such Police Officers, who all are otherwise acting in accordance with the procedures contemplated, then, the complaints of the accused persons cannot be entertained at all. Mostly many such writ petitions are filed before the High Court under Article 226 of the Constitution of India to prevent the Police Officers from performing their duties and responsibilities and with an idea to threaten the Police officials indirectly. Such actions of the litigants are to be dealt with seriously and those persons, who all are filing writ petitions with false set of facts, are also liable for prosecution.

5. Undoubtedly, the Police officials are working under stress. The Police Officers are working round the clock 24X7=365 days. They have no specified time for the performance of their duties and responsibilities. Thus, the Police Officers, who all are under stress, need proper protection by all concerned, including Courts, Higher Police Officials as well as the right thinking citizens. The genuinity of the actions of the Police Officers must

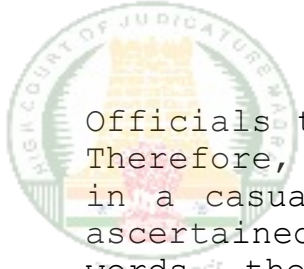


be taken into consideration at the first instance and their interests are also to be protected by the Higher Officials of the Police Department as well as by the Courts.

6. Equally, the corrupt Police officials are to be prosecuted. Thus, a balanced approach, in all such circumstances, is certainly warranted. Vexatious litigations or complaints filed with an idea to threaten the Police Officers are to be dealt with iron hand and Courts should not tolerate such conduct of the litigants, who all are approaching the Court of law on vexatious grounds or with an idea to achieve their goal through illegal means.

7. The Station Officer in a Police Station, on receipt of the complaints, is bound to register the same if there is a *prima facie* allegation warranting a prosecution. On registration of such complaints, if some of the accused persons are coming out with another version of the story, then, the Police Officer has to conduct an investigation and thereafter, collect evidence, record the statement of witnesses by following the procedures contemplated under law and prosecute the offenders. The Police Officers are not going to decide the issues. The Police Officers are not conducting trial or attempting to compromise the offences committed under the criminal law. The duty of the Police Officers is to ensure that the offences against the "State" under the criminal law are dealt with in accordance with law and by following the procedures contemplated. Under these circumstances, if the accused persons started filing complaints merely on the ground that a criminal case was registered against them, then, the same will create dangerous circumstances, where the Police Officers cannot perform their duties and responsibilities peacefully. Therefore, the vexatious complaints against the Police officials are also resulting in inefficiency in the criminal law system. As the Police Officers, who all are acting in accordance with law, needs better protection from the Courts as well from the Higher Officials of the Police Department. On receipt of any such complaint, an enquiry must be conducted immediately and the said complaints are to be dealt with in accordance with law. Keeping those vexatious complaints for an unspecified period will end in frustration in the minds of the honest Police Officers.

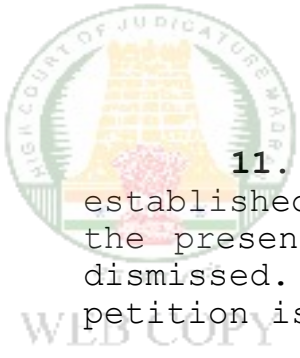
8. The honest Police Officers are to be rewarded and the corrupt Police officials are to be prosecuted. The higher Police officials as well as the Courts are bound to ascertain the genuinity of such complaints against the Police officials, if any writ petitions are filed. Recently, the Madras High Court is witnessing large number of writ petitions against the Police officials, wherein, criminal cases are registered against such writ petitioners. Such an attitude can never be encouraged nor tolerated. Therefore, a person, who is approaching the Court of law with such allegations against the Police officials must be cautious and should approach with concrete evidence to establish that the Police Officer concerned has committed a misconduct or violated the rule of law, then alone, the High Court can direct the Higher



Officials to institute action against the Police Officer concerned. Therefore, mere filing of a writ petition should not be dealt with in a casual manner. The genuinity of the writ petitions must be ascertained at the first instance by the High Court. In other words, the incriminating evidences or the circumstances, if any available, are to be considered even at the time of admission of such writ petitions. If there are *prima facie* allegations warranting any further action, then alone, the writ petitions are to be dealt with in accordance with law. Otherwise, those writ petitions are liable to be dismissed with exemplary costs by treating those litigations as vexatious litigations.

9. However, many such writ petitions are filed with mere allegations. Mere allegations are insufficient to issue a direction to institute departmental disciplinary proceedings or prosecution against the Police officials. The facts and circumstances are to be measured properly and the materials produced are also to be considered for the purpose of issuing any such directions under Article 226 of the Constitution of India.

10. In the present case on hand, on account of certain family property disputes between the brothers, civil disputes are pending. The civil disputes ended with the criminal action and accordingly, the criminal cases were also registered. Thus, the writ petitioner has to face the proceedings and defend his case in the manner known to law. Contrarily, the writ petitioner cannot accuse the Police Officers for registering a case against him. Such writ petitions cannot be entertained under Article 226 of the Constitution of India. A writ of mandamus would lie undoubtedly if the public servants are failing in their duty to act as per the Service Rules. However, the facts and circumstances are important to ascertain whether there is any misconduct, negligence or dereliction of duty. Only in such circumstances, a direction can be issued to institute appropriate action. Contrarily, mere registration of a criminal case against the accused persons would not provide a cause for them to file writ petitions under Article 226 of the Constitution of India and such writ petitions are to be treated as vexatious litigations and dismissed with exemplary costs in order to protect the honest Police Officers and the right of thinking persons, who all are working in the Police Department. In the event of not encouraging such honest Police Officers, then, they will get frustration and their ability and efficiency of performance of their duties and responsibilities will undoubtedly come down. It is the duty of the Courts as well as the Higher Officials of the Police Department to ensure that all the Police Officers are bound to work with efficiency and with devotion. Only in the event of protecting the honest Police Officers by rewarding them, they will get encouragement and perform their duties and responsibilities to the expectation of the citizen of this great Nation. The encouragement of such Police Officers are of paramount importance and at the same time, initiating prosecution against the corrupt Police officials is also highly warranted.



11. This being the factum, the writ petitioner has not established any acceptable grounds for the purpose of entertaining the present writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

/ True Copy /

Sub Assistant Registrar (CS-)

To:

The Superintendent of Police,
Sivagangai District.

Copy To:

The Director General of Police,
Mylapore, Chennai-600 004.

+1 CC to M/s.M.SUBASH BABU, Advocate
(SR-72715[F] dated 02/07/2019)

+1 CC to M/s.SPL GP (SR-72765[F] dated 02/07/2019)

W.P(MD) No.15095 of 2015

and

M.P(MD) No.1 of 2015

01.07.2019

am / krk
ES/22.07.2019/5P/5C