



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.1639 of 2014

and

M.P. (MD) Nos.1 and 2 of 2014

Murugesan

... Petitioner

-Vs-

1. The Home Secretary,
Secretariat, Chennai.
2. The District Collector,
Thoothukudi District,
Thoothukudi.
3. The Commissioner of Police,
Coimbatore City, Coimbatore.
4. The Superintendent of Police,
Office of Superintendent of Police,
Thoothukudi.
5. The Revenue Divisional Officer,
Thiruchendur, Thoothukudi District.
6. The Inspector of Police,
B3 Police Station,
Gandhipuram, Coimbatore.
7. The Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.
8. Periyasamy
9. Manikandan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 to 7 to initiate appropriate proceedings against the respondents 8 and 9 based on the representation dated 05.09.2013.



For Petitioner : Mr.R.Pon Karthikeyan
For R1 to R7 : Mr.S.Dhayalan,
Government Advocate.
For R8 and R9 : No Appearance

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ORDER

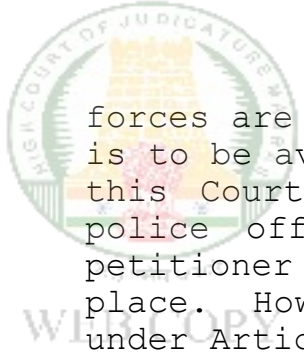
The relief sought for in the present Writ Petition is for a direction to direct the respondents 1 to 7 to initiate appropriate proceedings against the respondents 8 and 9, based on the representation dated 05.09.2013.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that the respondents 8 and 9 exceeding their powers brutally attacked the writ petitioner, who was no way connected with any offence. The writ petitioner made a complaint that the respondents 8 and 9 dragged him by holding his shirt on the road and forcibly thrown him in a far of place. Police men told the writ petitioner that his uncle's son had misappropriated huge amount and on enquiry, it was informed that the said relative of the writ petitioner had given the misappropriated amount to the writ petitioner.

3.This being the factum, this Court is of an opinion that the policeman has got every reason to believe that the writ petitioner also would have involved in the act of misappropriation along with his uncle's son. On account of certain suspicion, the writ petitioner also was taken away for investigation. Further, the policemen on duty also are bound to follow the rules, while investigating the cases. Undoubtedly, an occasion may arise for a police man to deal with the accused person little harshly. Under those circumstances, all necessary forces are to be applied in order to cull out the truth or ascertain the facts regarding the offences committed or offences brought to the notice of the police officer concerned. Therefore, certain exercise, if any, within the permissible limit, is to be tolerated, whenever a policeman undertakes the process of investigation.

4.In the present case on hand, the uncle's son of the writ petitioner misappropriated a huge amount. The said person would have informed the police that he handed over the money to the writ petitioner. Thus, an occasion arose for the policeman to investigate the writ petitioner also. During the course of investigation, it may be necessary to be little harsh for the purpose of culling out the truth and such investigation can never be faulted with in the event of initiating actions in such kind of matters.

5.The Courts are encouraging the police officer, who are genuinely participating in the matter of investigation and performing their duties and responsibilities. The police officers on duty are supposed to follow the rules and regulations. The



forces are to be applied, whenever required. Unnecessary harassment is to be avoided. The present facts and circumstances placed before this Court reveal that no such excessiveness was applied by the police officer. The police officers have taken away the writ petitioner in a vehicle and subsequently, dropped him in another place. However, these aspects cannot be enquired into by this Court under Article 226 of Constitution of India.

6.This Court has elaborately considered the recent trend of filing Writ Petitions against the police officers for the purpose of instituting departmental disciplinary proceedings. Whenever an accused person is arrested, then the relatives or the accused persons are filing Writ Petitions by stating that the police officers have committed misconduct and disciplinary actions are to be initiated. Such a trend is created in order to demoralise the functioning of the police officers and demotivating them from performing their duties and responsibilities. This Court is of the considered opinion that the police officer must show courage under those circumstances and act in accordance with the law.

7.This being the expected performance of the truthful police officer, this Court is of the considered opinion that the Courts cannot entertain such Writ Petition filed with an idea to threaten the police man under the guise, if any action then, they will file Writ Petition.

8.In this regard, this Court elaborately discussed the issues and passed an order in W.P.(MD)No.15095 of 2015, dated 01.07.2019 and the relevant paragraphs are extracted hereunder:-

"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."

9. In view of the facts and circumstances narrated in the present Writ Petition, this Court is of the considered opinion that the writ petitioner has not established any acceptable legal ground for the purpose of granting the relief as such sought for in the present Writ Petition. Accordingly, this Writ Petition stands



dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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// True Copy //

Sub Assistant Registrar (CS)

To

- 1.The Home Secretary,
Secretariat, Chennai.
- 2.The District Collector,
Thoothukudi District,
Thoothukudi.
- 3.The Commissioner of Police,
Coimbatore City, Coimbatore.
- 4.The Superintendent of Police,
Office of Superintendent of Police,
Thoothukudi.
- 5.The Revenue Divisional Officer,
Thiruchendur, Thoothukudi District.
- 6.The Inspector of Police,
B3 Police Station,
Gandhipuram, Coimbatore.
- 7.The Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.

+1 CC to Mr.R.PON KARTHIKEYAN, Advocate (SR-80785[F] dated 08/08/2019)

+1 CC to SPL GP (SR-81178[F] dated 09/08/2019)

W.P. (MD) No.1639 of 2014
08.08.2019

myr

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