



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P[MD]No.338 of 2014

K.M.Akbar Ali

... Petitioner

Vs.

1.The Secretary,
Home Department,
Secretariat, Chennai.

2.The Director General of Police,
Chennai.

3.The Inspector General of Police,
South Zone,
Madurai.

4.The Deputy Inspector General of Police,
Ramanathapuram.

5.The Superintendent of Police,
Sivagangai District.

6.The Deputy Superintendent of Police,
Manamadurai,
Sivagangai District.

7.Senguttuvan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 to 6 to take appropriate disciplinary action against the seventh respondent for his act of misuse of power with ulterior motive based on the petitioner's representation dated 20.12.2013 within the time that may be stipulated by this Court.

For Petitioner : Mr.M.Rajendran
for M/s.Rishi Associates

For Respondents 1 to 6 : Mr.M.Jeyakumar
Additional Government Pleader

For Respondent No.7 : Mr.K.Viralinathan



ORDER

The relief sought for in the present writ petition is for a direction to direct the respondents 1 to 6 to take appropriate disciplinary action against the seventh respondent for his act of misuse of power with ulterior motive based on the petitioner's representation dated 20.12.2013 within the time that may be stipulated by this Court.

2.The writ petitioner states that he is a bookseller and he was brutally attacked on 29.04.2013 in front of his house by Mr.Abdul Hai (Pakeer Sha), Prabakaran aided with their 6 other henchmen, Al-Ameen, Khan, Raja, Sheik, Jahir, Diwan, who attempted to trespass into his house but the same was restrained by his younger brother Sidique and hence, the above said persons pelted stone into the house of the writ petitioner.

3.The writ petitioner narrating the entire incident, lodged a complain on 29.04.2013 itself before the seventh respondent. The seventh respondent refused to receive the complaint. Hence, the writ petitioner sent the same to the first respondent. Thereafter, the writ petitioner filed a Crl.O.P.[MD]No.16862 of 2013 and this Court passed an order on 13.11.2013 and the relevant portion of the order reads as follows:

"The petitioner is directed to appear before the second respondent police station within a period of two weeks from the date of receipt of a copy of this order with relevant documents. On such appearance, the respondent is enquire into the matter and on enquiry, if any cognizable offence is made out, the respondent police is directed to register a case and to investigate the same in accordance with law."

4.Along with the order, the writ petitioner met the seventh respondent in the police station and the seventh respondent threatened the writ petitioner by stating that he will foister false case against the writ petitioner. In this regard, the writ petitioner sent a written complaint on 20.12.2013 to all the respondents by RPAD which were received by the respondents on 23.12.2013. The writ petitioner contacted the seventh respondent through mobile phone and the seventh respondent threatened the writ petitioner and scolded him for sending complaint to the higher authorities.

5.With reference to the complaint sent by the writ petitioner, the Deputy Superintendent of Police, Sivagangai conducted an enquiry. The report submitted by the Deputy Superintendent of Police, reveals that the allegations are incorrect and further he came to the conclusion that the statement made in the complaint by the writ petitioner was not correct and no further action is required. This Court is of the considered opinion that making



certain general allegations against the police officers are certainly impermissible. A police officer while executing his duties are bound to maintain discipline and decorum so also the persons who are approaching for registering complaint must also behave properly.

6. This Court is of the considered opinion that on certain circumstances, wordy quarrels are developed between the complainant and the police officer when the police officers are making an attempt to say something regarding the procedures and the legal aspects. In the present case on hand, the police officer came to the conclusion that it is a civil case which is to be resolved through the competent Civil Court of law.

7. This Court considered the conduct of the de-facto complainant in filing complaints against the police officer in W.P.[MD]No.15095 of 2015 dated 01.07.2019 and certain observations made by this Court 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.

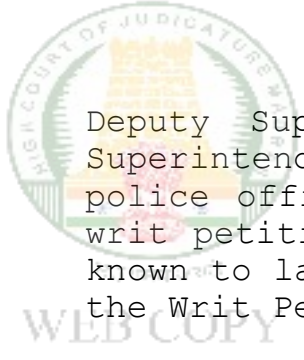
7. The Station Officer in a Police Station, on receipt of the complaints, is bound to register the same if there is a prima facie allegation warranting a prosecution. On registration of such complaints, if some of the accused persons are coming out with another version of the story, then, the Police 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."



Deputy Superintendent of Police and the report of the Deputy Superintendent of Police reveals that the allegations against the police officers are not correct and under these circumstances, the writ petitioner is at liberty to work out his remedy in the manner known to law and by following the procedures contemplated. However, the Writ Petition is devoid of merits.

9. Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Secretary,
Home Department,
Secretariat, Chennai.
2. The Director General of Police,
Chennai.
3. The Inspector General of Police,
South Zone,
Madurai.
4. The Deputy Inspector General of Police,
Ramanathapuram.
5. The Superintendent of Police,
Sivagangai District.
6. The Deputy Superintendent of Police,
Manamadurai,
Sivagangai District.

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MR

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