



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.7331 of 2014

and

M.P. (MD)No.1 of 2014

K.A.K.Poovanathan

... Petitioner

-Vs-

1. The State of Tamil Nadu,
Represented by the Principal Secretary,
Home Department,
Fort Saint George, Chennai-600 009.

2. The Director General of Police,
Tamil Nadu Police Department,
Kamarajar Salai, Chennai-600 004.

3. The Superintendent of Police,
Madurai District, Madurai-2.

4. T.Suriya Kala

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first respondent to issue necessary direction to the second respondent to take appropriate departmental action as against the fourth respondent for having misused the powers vested on her on the basis of the representation made by the petitioner to the first respondent dated 30.11.2012.

For Petitioner	: Mr.K.Kannan
For R1 to R3	: Mr.K.Mu.Muthu, Additional Government Pleader.
For R4	: Mr.S.C.Herold Singh

ORDER

The relief as such sought for in the present Writ Petition is for a direction to direct the first respondent to issue

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necessary direction to the second respondent to take appropriate departmental action as against the fourth respondent for having misused the powers vested on her on the basis of the representation made by the writ petitioner to the first respondent dated 30.11.2012.

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2.The learned counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner is a practising Advocate in Madurai Bench of Madras High Court, Madurai and he is continuing his practice from the year 2000 onwards. The wife of the writ petitioner gave a complaint against the writ petitioner before the Inspector of Police, All Women Police Station, Samayanallor, Madurai District. The Inspector of Police, conducted an investigation and subsequently, it was brought under the knowledge of the fourth respondent that the case files should be transferred before the Thiruparankundram Police Station and accordingly, the fourth respondent transferred the complaint to the Thiruparankundram Police Station, who in turn, registered the criminal case against the writ petitioner and proceeded with the investigation.

3.The learned counsel appearing on behalf of the writ petitioner mainly contended that the fourth respondent had entertained the complaint without jurisdiction. Thus, suitable departmental actions are to be initiated against the fourth respondent by erroneously entertaining the complaint filed by the wife of the writ petitioner.

4.At the outset, the learned counsel appearing on behalf of the writ petitioner states that the complaint was erroneously entertained by the fourth respondent with the collusion of his father-in-law. Thus, actions are to be initiated.

5.The learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 at the first instance informed this Court that the writ petitioner and his wife as of now, are leading happy matrimonial life. The disputes between the husband and wife were resolved and they are now living together.

6.In respect of the allegations, the learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 made submissions that the allegations are absolutely false and on receipt of the complaint, a Police Officer must look into the same and as per the instructions provided by the department, any complaint received by the competent authority cannot be neglected. Under these circumstances, the wife of the writ petitioner in a frustrated mode and in an agitated mode came to the police station and submitted the complaint and under those circumstances, the complaint was entertained by the fourth respondent. Subsequently,



the fourth respondent found that the complaint must be transferred to Thiruparankundram Police Station and accordingly, transferred the same for further investigation. However, the case was transferred after arresting the writ petitioner.

7.This Court is of the considered opinion that even in case, where the complaint was registered before the wrong police station and the accused person is arrested, the same would not cause any prejudice to the interest of the accused. Once, the law is set in motion, only course of action is to apply for bail and conduct the case in the manner prescribed under the Criminal Procedure Code. Contrarily, the jurisdiction point raised in respect of receipt of complaint cannot be entertained, in view of the fact that after knowing the fact that the fourth respondent has no jurisdiction in respect of the complaint filed by the wife of the writ petitioner, transferred the same and the competent police station namely, Thiruparankundram Police Station continued the investigation and proceeded with the criminal case in the manner known to law before the competent Court of law.

8.The Hon'ble Supreme Court of India repeatedly, held that refusal of registering the First Information Report on the ground that place of crime does not fall within the territorial jurisdiction or police station, amounts to dereliction of duty. The High Court also have reiterated the same in many number of cases that on information about the cognizable offence, the same must be registered and be forwarded to the police station having jurisdiction.

9.This being the judgment of the Hon'ble Supreme Court of India as well as the High Courts, the Station Police Officer on receipt of any information regarding the cognizable offence or if any complaint is filed, register the same and thereafter, transfer the case before the jurisdictional police station. In all those circumstances, the required actions are to be taken by the officer concerned. In the event of any time lapse, it is possible that the accused may escape from the place or the scene of crime may disappear. In view of this kind of emergency, the police officer in charge must immediately, act and do the needful in respect of the cognizable offences or any complaints regarding the serious allegations are filed before the police officer concerned.

10.The State being the prosecutor, the officials of the police department and station in charge must be vigilant and they must act prudently. Soon after they come to know that the complaint must be transferred to some other police station, they are bound to transfer it and the transferee officer should continue the investigation and proceed with the trial before the Criminal Court of law.



11.This being the procedures to be followed, the learned Additional Government Pleader states that under Section 154 Cr.P.C., the police officer must register the First Information Report based on the complaint containing any cognizable offence. There is no limitation of jurisdiction for registering the case. It is a common practice to register the First Information Report in a police station, where the complaint is received and subsequently, transferred to the police station, having jurisdiction, as there is no legal infirmity as alleged by the writ petitioner. Thus, in this case also the fourth respondent registered the case and conducted the preliminary investigation and thereafter, transferred the case to All Women Police Station, Thiruparankundram, where further investigation is conducted and criminal case was proceeded with.

12.This Court is of the considered opinion that though the writ petitioner states that the fourth respondent has acted with *mala fide* intention, there is no materials to establish any such personal allegation. *Mala fide* intention cannot be accepted in a routine manner. Only in the event of establishing that the officer has acted in an indifferent manner on certain personal motives, the Court can consider the said ground and not otherwise. Mere allegation of *mala fide* is insufficient to consider the case and in the present case, the writ petitioner has not established with proof any such *mala fide* allegation against the fourth respondent.

13.This being the factum, it is to be construed that such writ petitions are filed in order to demotivating and demoralizing the police officials to proceed with the criminal case.

14.The recent trend is that whenever a criminal case registered, the accused persons are filing Writ Petition to initiate departmental disciplinary proceedings against the police officials. Such a trend cannot be encouraged. Only in genuine case, where the police officers had committed any misconduct or otherwise, then alone suitable directions can be issued for the purpose of initiating disciplinary proceedings and not otherwise. The Writ Petitions are filed with certain blanket allegations and such Writ Petitions cannot be entertained for the purpose of issuing a direction to institute disciplinary actions.

15.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.

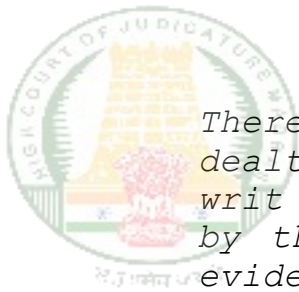
5. Undoubtedly, the Police officials are working under stress. The Police Officers are working round the clock 24X7=365 days. They have no specified time for the performance of their duties and responsibilities. Thus, the Police Officers, who all are under stress, need proper protection by all concerned, 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.



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 initiate 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."

16.As far as the present Writ Petition is concerned, now, it is brought to the notice of this Court that the husband and wife had resumed their matrimonial home and living together happily.

17.This being the factum, this Court is of the considered opinion that the writ petitioner being a practising Advocate ought not to have filed such a Writ Petition with blanket allegations. The writ petitioner being a practising Advocate, must show more responsibility and file Writ Petitions.

18.With these observations, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

To

1 The Principal Secretary,
State of Tamil Nadu,
Home Department,
Fort Saint George, Chennai-600 009.

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2. The Director General of Police,
Tamil Nadu Police Department,
Kamarajar Salai, Chennai-600 004.

3. The Superintendent of Police,
Madurai District, Madurai-2.

+1 CC to Mr.S.C.HEROLD SINGH, Advocate (SR-78326[F] dated
29/07/2019)

+1 CC to Mr.K.KANNAN, Advocate (SR-78455[F] dated 30/07/2019)

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-78528[F] dated
30/07/2019)

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29.07.2019

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