



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 14.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P. (MD)No.25188 of 2018

and

W.M.P. (MD)No.22810 of 2018

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P.Murugan

...Petitioner

-Vs-

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

2.The Director General of Police,  
Office of the Director General of Police,  
Chennai.

3.The Commissioner of Police,  
Pudukottai Main Road,  
Subramanipuram, Trichy City.

4.Sigamani,  
Assistant Commissioner of Police,  
Contonment Sub-Division,  
Trichy City.

5.Vijaya Baskar,  
Inspector of Police,  
Contonment Police Station,  
Trichy City.

.. Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus, to direct the respondents 1, 2 and 3 to transfer the respondents No.4 and 5 to some other Sub-Division other than Trichy Contonment Sub-Division, by considering the representation submitted by the petitioner dated 14.12.2018.

|                |                                                     |
|----------------|-----------------------------------------------------|
| For Petitioner | : Mr.R.Alagumani                                    |
| For R1 to R3   | : Mr.R.Anandharaj,<br>Additional Public Prosecutor. |
| For R5         | : Mr.J.Lawrance                                     |

**ORDER**

This petition has been filed to direct the respondents 1, 2 and 3 to transfer the respondents No.4 and 5 to some other Sub-Division other than Trichy Contonment Sub-Division, by



considering the representation submitted by the petitioner dated 14.12.2018.

2. The learned counsel for the petitioner would submitted that the fourth respondent when he was working as a Inspector of Contonement Police Station, Trichy, registered a false case as against the petitioner in Crime No.1281 / 2011, Crime No. 121 / 2012 and Crime No.47 / 201. Further he was arrested by the fourth respondent and he was also detained under the preventive detention. Thereafter, the petitioner sent a representation to the Advisory Board against the detention order passed by the Trichy Commissioner and the Advisory Board revoked detention order. Infact, on 21.06.2012, when the petitioner along with his wife came to this Court to attend the case in Crl.OP.No.5179 of 2012, the fourth respondent abused them and assaulted them even in the Court premises. Therefore, he lodged a complaint before the Inspector of Police, Oothakadai Police Station and unfortunately, that complaint was not taken on file, immediately he was admitted into the Rajaji Government Hospital, Madurai, as inpatient. Thereafter, he sent so many representations to all the higher officials to take appropriate action as against the respondents 4 & 5 herein. Even, after the receipt of the said representations, no action was taken. Therefore, he sought for a direction to direct the respondents 1, 2 & 3 herein to transfer the respondents 4 & 5 herein.

3. The learned counsel for the fifth respondent filed a counter affidavit and stated that the petitioner is a History Sheeter. He involved in 7 cases. In which, he was acquitted in 3 cases and convicted in 2 cases. Still his name is found in the History Sheet. He also stated that the petitioner suppressed several true facts and approached this Court with unclean hands. He further stated that the petitioner filed this Writ Petition not only threatened the concerned police officials but also escape from the clutches of law. Therefore, he prayed for dismissal of this Writ Petition.

4. The learned Additional Public Prosecutor would submit that the petitioner is a habitual offender and he is a History Sheeter in H.S.No.1/2012 on the file of the Contonement Police Station, Trichy. He further submitted that the fourth respondent was working as a Inspector of Contonement Police Station, Trichy. Now, the fourth respondent is promoted to the post of Assistant Commissioner of Police, Trichy District. He is also transferred to Chennai. In respect of the fifth respondent is concerned he is working from 2018 onwards as Inspector of Contonement Police Station, Trichy. Therefore, the petition is nothing but clear abuse of process of law. Hence, it is liable to be dismissed.

5. Heard Mr.R.Alagumani, learned counsel for the petitioner, Mr.R.Anandharaj, learned Additional Public Prosecutor appearing for the respondents 1 to 3 and Mr.J.Lawrance, the learned counsel appearing for the fifth respondent.



6. This writ petition has been filed to direct the respondents 1, 2 & 3 herein to transfer the respondents 4 and 5 to other Sub-Division from the Trichy Sub-Division. The petitioner also sent representation on 14.12.2018 to the respondents 1 to 3.

7. On perusal of the records and counter affidavit, it reveals that the petitioner is a History Sheeter, he involved in 7 cases, which are as follows:-

| SL. No | Crime Number & Section of Law                                                     | Stage         |
|--------|-----------------------------------------------------------------------------------|---------------|
| 1)     | Cantonment P.S.Cr.No.2475/2010 U/s 160 IPC                                        | Convicted     |
| 2)     | Cantonment P.S.Cr.No.1281/2011 U/s 294 (b), 323, 506 (i) IPC                      | Acquitted     |
| 3)     | Cantonment P.S.Cr.No.06/2012 U/s 75 (1) (c) TNCP Act                              | Convicted     |
| 4)     | Cantonment P.S.Cr.No.47/2012 U/s 294 (b), 323, 506 (ii) IPC                       | Acquitted     |
| 5)     | Cantonment P.S.Cr.No.121/2012 U/s 392 r/w 397, 506 (ii) IPC                       | Acquitted     |
| 6)     | Cantonment P.S.Cr.No.449/2013 U/s 294 (b), 323 IPC r/w 4 of Women Harassment Act. | Pending trial |
| 7)     | Cantonment P.S.Cr.No.2195/2017 U/s 294 (b), 506 (i) IPC r/w 3 of TNPPDL Act       | Pending trial |

8. In which, he was acquitted in 3 cases and he was convicted in 2 cases.

9. Under these circumstance, the petitioner approached this Court for the prayer of direction, directing the higher officials to transfer the 4<sup>th</sup> and 5<sup>th</sup> respondents. It is inherent in the eye of law, if the accused seeks direction to transfer the police officials. Further,

i) Whether this writ petition is maintainable or not?

ii) Whether the petitioner's constitutional right is affected or not?

10. Admittedly, the petitioner is an accused and he cannot seek a direction to transfer the officials from one Division to another Division under Article 226 of Constitution of India. The petitioner has no *locus standi* to seek this kind of prayer under Article 226 of Constitution of India. As rightly pointed out by the learned Additional District Judge, the petitioner is a History Sheeter



and only to escape from the clutches of law, the present Writ Petition has been filed. Therefore, this Writ Petition does not have any merits and this Writ Petition is not maintainable. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar (CS )

**dss**

To

- 1.The Principal Secretary,  
Department of Home,  
Fort St.George, Chennai - 600 009.
  - 2.The Director General of Police,  
Office of the Director General of Police,  
Chennai.
  - 3.The Commissioner of Police,  
Pudukottai Main Road,  
Subramanipuram, Trichy City.
  - 4.The Assistant Commissioner of Police,  
Contonment Sub-Division, Trichy City.
  - 5.The Inspector of Police,  
Contonment Police Station,  
Trichy City.
  - 6.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.
- +1 CC to M/s.J.LAWRANCE, Advocate SR-91799.

**W.P. (MD)No.25188 of 2018**

**and**

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