



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2019

CORAM

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

W.P (MD).No. 23556 of 2018

and

WMP (MD) No.21353 of 2018

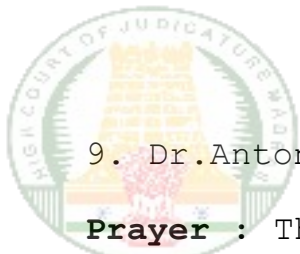
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Sardar Batcha

.. Petitioner

Vs.

1. The Home Secretary
Secretariat
St.George Fort
Chennai- 9
2. The Health Secretary
Secretariat
St.George Fort
Chennai
3. The District Collector
Madurai District
Madurai
4. The Director General of Police
O/o. Directorate General of Police
Chennai
5. The Commissioner of Police
Commissioner Office
Madurai
6. The Secretary
Tamil Nadu Medical Council
No.914, Poonamallee Road
Arumbakkam 100 Feet Road
Chennai- 106
7. The Sub Inspector of Police
S.S.Colony Police Station
Madurai City
Now in Service, Thilagar Thidal Police Station
Madurai City
- 8.Boopathy
The Sub Inspector of Police
S.S.Colony Police Station
Now in Service Thilagar Thidal Police Station



9. Dr.Antony Prince

.....Respondents

Prayer : This petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the respondents No.1 to 6 to pay the compensation of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) to the petitioner and petitioners family members for registration of false FIR against petitioner and family members based on the petitioners representation dated 25/11/2017

For Petitioner	: Mr.M.MohamedRafi r
For Respondents	: Mr.R.Anandharaj
No.1 to 5 & 7	Additional Public Prosecutor
No.6	: Mr.C.Karthick
No.9	: Mr.K.R.Laxamn

ORDER

This Petition has been filed to direct the respondents No.1 to 6 to pay the compensation of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) to the petitioner and petitioners family members for registration of false FIR against petitioner and family members based on the petitioners representation dated 25/11/2017

2. On the complaint lodged by Mohammed Sardar on 26.10.2015 before the eight respondent the eight respondent registered a case in Crime No. 881 of 2015 for the offences under Sections 342,294(b), 323,324 and 506(ii) of IPC. After completing the investigation, filed final report in which the petitioner is arrayed as first accused along with three other accused persons and the same has been taken cognizance in C.C.No.133 of 2015 on the file of the learned Judicial Magistrate No.V, Madurai. The prosecution conducted trial and proceeded with the trial and the trial court acquitted all the accused persons for those offences. Thereafter on false documents and on false complaint the petitioner and other accused persons were robed into this crime unnecessarily and dragged in the trial proceedings. Thereafter they sustained mental agony and also their names damaged in the public. On the basis of the acquittal order the trial court has given clean sheet as against the petitioner and others. Thereafter the petitioner made a representation to the respondents 1 to 6 seeking compensation of Rs.25 lakhs for registration of false case as against the petitioner and his family members. The petitioner and others were charged for offences under Sections 342,294(b),323,324 and 506(ii) of IPC. On the complaint given by the eighth respondent the respondent police registered a case and filed final report and the same has been taken cognizance in C.C.No.133 of 2015. The prosecution examined PW. 1 to P.W.11 and marked exhibits Ex.P.1 to Ex.P.9 and also marked one material object. After examination of witness the trial court found the following:

"20. On going through the material documents and evidence produced before this Court, it is seen



that the case revolves around said Abuthahir and all the witnesses in this case are somehow related to syed abuthahir, who is the son in law of the PW 1 and husband of the PW 2 and the Ex-son in law of the accused. But not interrogating the said syed Abuthahir creates doubt in the mind of this court that whether the investigation agency had been played as puppet by the hands of the said Abuthahir and the police investigation appears to have been biased in favour of the complainant party.

21. Furthermore, all the material witnesses of the prosecution are either interrelated or otherwise interested in the prosecution. There are many other infirmities and contradictions in the evidence of prosecution witnesses. It is not necessary to burden this judgment by dealing all of them. Suffice it to say that in the absence of corroboration to a material extent, in all material particulars, it was extremely hazardous to convict the accused persons on the basis of the testimony of these highly interested, inimical and partisan witnesses, particularly when it bristled with improbable versions and material infirmities.

22. From the evidence of PW 1 to PW 11 it is seen that in the manner as projected by the prosecution and the plethora of circumstances available on record could very well point out that the same could have come into existence after an inordinate and undue delay with the avowed object of projecting a sinister version suiting to the exigency of the case of prosecution with so much window-dressing but not reflecting the reality of situation. Apart from these pitfalls this Court found that the investigating agency had not placed all the cards before the table, in this sense of revealing the entire story, so that it may be possible to find out the nugget of truth.

23. In order to ascertain the veracity of prosecution case, I have cautiously scrutinized the entire records of this case on the account of every criminal prosecution touches the right to life of the citizen which is guaranteed under Article 21 of the Constitution. And I am fully stand with the legal requirement that the accused persons shall not be convicted based on mere suspicion and that to convict an accused there should be very tangible and clinching evidence available against him. I find several loopholes on the prosecution case to prove the guilt of the accused persons. The prosecution has



miserable failed to prove the guilt of the accused persons at any point of time.

24. In the result, A1 accused was found not guilty for the offence punishable under section 294 (b), 323, 324 and 506(ii) of Indian Penal Code. A2 accused was found not guilty for the offence punishable under Section 506(ii) of IPC, A3 accused was found not guilty for the offence punishable under Section 323, 342 and 506(ii) of IPC and A4 accused was found not guilty for the offence punishable under Section 324, 506(ii) of IPC and accordingly all the accused are acquitted of the charges under Section 248 (1) of Cr.P.C

3. It is seen from the above, the trial court acquitted the accused persons only for the reason that there are several loopholes on the prosecution case to prove the guilt of the accused persons at any point of time. It cannot be said that the petitioners have been falsely robed in the crime and they never committed any crime only because of the failure of the prosecution to prove the case, the trial court acquitted them. Therefore petitioner is not entitled for any compensation as sought by him

4. In the result, the petition is devoid of merits and liable to be dismissed. Accordingly the Writ Petition stands dismissed. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Home Secretary
Secretariat
St.George Fort
Chennai- 9

2. The Health Secretary
Secretariat
St.George Fort
Chennai



3. The District Collector
Madurai District
Madurai
4. The Director General of Police
O/o. Directorate General of Police
Chennai
5. The Commissioner of Police
Commissioner Office
Madurai
6. The Sub Inspector of Police
S.S.Colony Police Station
Madurai City
7. The Sub Inspector of Police,
Thilagar Thidal Police Station,
Madurai City.
8. The Secretary,
Tamil Nadu Medical Council,
No.914 Poonamallee Road,
Arumbakkam 100 Feet Road,
Chennai 106.

+1 CC to M/s.C.KARTHIK, Advocate (SR-94167[F] dated 24/10/2019)

+1 CC to M/s.K.R.LAXMAN, Advocate (SR-94600[F] dated 25/10/2019)

W.P (MD).No. 23556 of 2018
andWMP (MD) No.21353 of 2018
24.10.2019

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