

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2020

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.15804 of 2013
(heard through VC)

S.Paanjalai

...Petitioner

Vs

1. The Director General of Police,
O/o.The Director General of Police,
Police Headquarters, Mylapore,
Chennai-600 004.
2. The Superintendent of Police,
O/o.The Superintendent of Police,
Tiruvannamalai, Tiruvannamalai District.
3. Mr.Sundaramoorthi,
The Deputy Superintendent of Police,
Arni, Tiruvannamalai District.
4. Mr.Balasubramanian,
Inspector of Police,
Arni Taluk Police Station,
Arni, Tiruvannamalai District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 and 2 to initiate necessary departmental proceedings against the third and fourth respondents.

For Petitioner : Mr.R.Amardeep

For Respondents : Mr.V.Shanmugasundar,
Special Government Pleader
for RR1 and 2

O R D E R

This writ petition is heard through Videoconferencing, on account of the COVID-19 pandemic situation.

2. The petitioner sought for a direction to the respondents 1 and 2 to initiate necessary departmental proceedings against the respondents 3 and 4.

3. The petitioner, who belongs to Adi Dravida community, has stated that her son Gandhi married to one Durga in the month of November 2010, which was a love marriage and as the girl's family is relatively well-off, they have humiliated the petitioner and her husband on several occasions. Likewise, on 09.08.2011, when her husband had attended a funeral ceremony, he was humiliated by one Gajendran and others, by beating him with Chappals and on the same evening, when her husband was away from home, 15 persons had got inside her house and ransacked the same, by throwing away all the household articles including food items. Therefore, the petitioner had given a complaint on 10.08.2011, to the second respondent, which was forwarded to the Sub Inspector of Police, Arni Taluk Police Station, wherein, her son and daughter-in-law were compelled to sign in the letter of withdrawal of the complaint on the undertaking by the said Gajendran that himself and his family will not disturb the petitioner's son and daughter-in-law. Thus, the complaint was closed to be withdrawn.

4. The petitioner stated that she had sent the complaint dated 10.08.2011 to the third and fourth respondents by registered post. The petitioner once again had sent a complaint on 30.08.2011 to the third and fourth respondents, which was received by them on 02.09.2011. As there was no response, she filed CrI.O.P.No.20093 of 2011 before this Court, which was disposed of on 23.11.2011, with a direction to the concerned police officials to enquire into the complaint in accordance with law and register a case, if any cognizable offence is made out.

5. According to the petitioner, the order of this court was also not obeyed. The petitioner had filed SHRC No.6545 of 2011 before the State Human Rights Commission (in short, "SHRC") Tamil Nadu. The SHRC also had given a direction to the Superintendent of Police, Tiruvannamalai District, on 12.09.2011 to enquire into the matter and take necessary action and closed the complaint. In spite of the said direction issued by the SHRC, since the complaint was closed, no action was taken by the respondents.

6. The petitioner further alleged that though she had not given the complaint dated 11.04.2012, a complaint was registered in her name as Crime No.302 of 2012 under Sections 355, 323, 147, 294(b), 448 and 506(ii) IPC and it was pending for some time. However, in the month of June, the same was closed as

Mistake of Fact and the final report was sent to the petitioner. The petitioner is aggrieved that her complaints were not dealt with in the manner known to law and has been facing humiliation in the hands of the respondents. As she is helpless, this writ petition is filed seeking a direction to the respondents 1 and 2 to initiate departmental proceedings against the respondents 3 and 4.

7. The second respondent has filed a counter affidavit admitting the receipt of the complaint dated 10.08.2011, by registered post, which was subsequently forwarded to the third respondent. It is stated that necessary enquiry has been conducted and whenever the police officials went to the residence of the petitioner, it was always locked and even the neighbours did not co-operate in the enquiry. The complaint was kept alive for enquiry for three months and as there was no co-operation from the petitioner, the same was closed for the present then and if any future complaint was received, necessary action would be taken.

8. The second respondent also further stated that she was not aware of the order passed in Crl.O.P.No.20093 of 2011 and also the proceedings of the SHRC. However, the second complaint, which was allegedly filed by the petitioner on 11.04.2012 was received by the third respondent and a case was registered in Crime No.302 of 2012 under 355, 323, 147, 294(b), 448 and 506 (ii) IPC and after conducting necessary enquiry and examining the witnesses, the said complaint was closed as mistake of fact and the final report was sent to the jurisdictional Judicial Magistrate. It is also stated that the Judicial Magistrate, Arni, in their notice No.2126 of 2012 dated 01.08.2012 informed the petitioner that necessary final report has been submitted with regard to Crime No.302 of 2012 by the Arani Taluk Police Station, Tiruvannamalai District, and objection, if any, may be informed on 16.08.2012 to enable the Judicial Magistrate to take further action, however, there was no response from the petitioner and she had not appeared before the Magistrate even after receiving such notice. Thus, it is submitted that though the petitioner is aware of the same, no action has been taken by the petitioner even to file a protest petition.

9. Heard the learned counsel on either side and perused the materials placed before this Court.

10. It is admitted by the second respondent that she had received the complaint dated 10.08.2011, by registered post, and the same was forwarded to the third respondent for necessary action, thereupon, necessary enquiry has been conducted, during which, whenever the police officials went to the residence of the petitioner, it was always locked and even the neighbours did not co-operate in the enquiry. Thus, it is claimed that due to the non-cooperation of the petitioner, the complaint dated 10.08.2011 was closed.

11. Unfortunately, the second respondent claimed that she was not aware of the order of this Court dated 23.11.2011 made in Crl.O.P.No.20093 of 2011 and the proceedings of the SHRC. Be that as it may, pursuant to the said order of this Court, the second complaint dated 11.04.2012 was immediately taken on file and registered as Crime No.302 of 2012 and after the enquiry, a final report was filed closing the same as 'Mistake of Fact' before the Judicial Magistrate, Arani, and the Judicial Magistrate sent Notice No.2126 of 2012 dated 01.08.2012 informing about the same and asking for objection, if any, to be filed on 16.08.2012 for taking further action. Though the petitioner claimed that she did not give the complaint dated 11.04.2012, upon receipt of notice from the Judicial Magistrate, she could have filed her response, bringing those facts before the Magistrate by filing a protest petition.

12. According to the respondents, it is only the personal enmity against the said Gajendran's family, the complaint has been given by the petitioner against the said Gajendran and his family members, and in the process, she is abusing the police officials, as if they are not taking action upon her complaints. In view of the above factual background, the claim of the respondents that they have followed the procedure and informed the outcome of the enquiry also to the petitioner and therefore, the petitioner cannot have any grievance cannot be found fault with. If the petitioner has any grievance, she has to take recourse under judicial process and she cannot seek for a direction to take disciplinary action against the respondents 3 and 4.

13. In the light of the above, the petitioner cannot have any indulgence from this Court, much less a direction against the police officials and this writ petition is liable to be dismissed as bereft of merits and accordingly, the same is dismissed. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

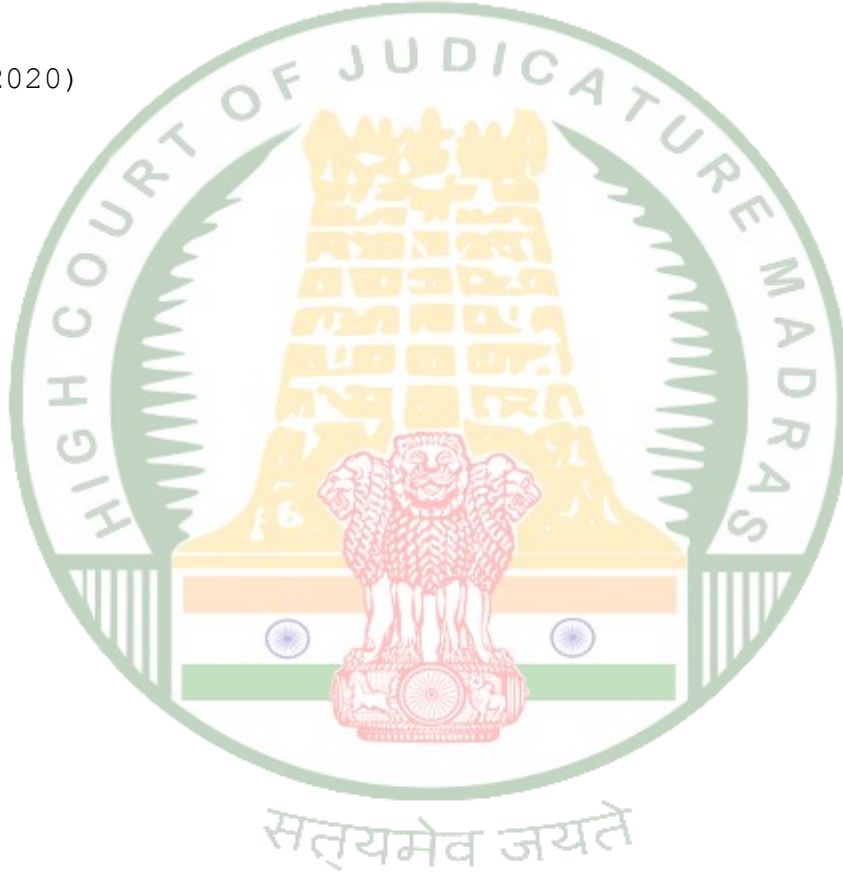
1. The Director General of Police,
O/o.The Director General of Police,
Police Headquarters, Mylapore,
Chennai-600 004.

2. The Superintendent of Police,
O/o.The Superintendent of Police,
Tiruvannamalai,
Tiruvannamalai District.

3. The Government Advocate,
High Court, Madras.

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KS (CO)
RV (23/10/2020)



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