

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2020

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.31025 of 2013

N.R.Ranjani

...Petitioner

Vs.

- 1.State of Tamil Nadu represented by
Its Secretary to Government,
Home Department,
Secretariat,
Fort St.George,
Chennai - 600 009.
- 2.The Director General of Police,
State Police Headquarters,
Santhome Beach Road,
Chennai - 600 004.
- 3.The City Police Commissioner,
Chennai City,
City Police Commissioner Office,
Veppery,
Chennai.
- 4.The Deputy Commissioner of Police,
St.Thomas Mount,
Chennai.
- 5.The Assistant Commissioner of Police,
Madippakkam,
Chennai.
- 6.The Inspector of Police,
Anna Nagar Police Station,
Chennai.
- 7.The Inspector of Police,
W32, Madippakkam All Women Police Station,
Chennai.

8.Kavitha

9.S.Sivakumar

...Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 4 to initiate disciplinary proceedings against the 8th respondent on the strength of the complaint dated 28.10.2013 and file an enquiry report before the third respondent for appropriate action under the Police Rules.

For Petitioner : Mr.N.Senthil Kumar
For Respondents : Mr.S.Thangavel for R1 to R8
Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents 1 to 4 to initiate disciplinary proceedings against the eighth respondent on the strength of the complaint dated 28.10.2013 and to file an enquiry report before the third respondent for appropriate action under the Police Rules.

2.The case of the petitioner is that the petitioner is a divorcee and had fallen in love with the ninth respondent. Initially both the families decided to solemnize marriage between the petitioner and the ninth respondent during September, 2013, however, later the ninth respondent demanded high sreedhana beyond the scope of the petitioner's family and also informed the petitioner that his family members had seen some other girl of their own caste with high status and he was willing to marry the girl shown by his parents.

3.It is the further case of the petitioner that since the petitioner's parents were not able to arrive at an amicable understanding with the ninth respondent's parents to solemnize the marriage between the petitioner and the ninth respondent during September, 2013, as already decided, the petitioner gave a complaint to the sixth respondent and the same was assigned CSR No.205 of 2013. Thereafter, the sixth respondent informed the petitioner that they have no jurisdiction to entertain her complaint and that the seventh respondent is the competent Authority.

4.It is the further case of the petitioner that on 20.09.2013, the petitioner gave complaint to the seventh respondent and the same was assigned CSR No.491 of 2013. Since there was no progress in the investigation, the petitioner filed Crl.O.P.No.26174 of 2013 for a direction to register her complaint dated 20.09.2013. This Court vide order dated 20.10.2013 issued direction to the seventh respondent herein to conduct enquiry and to register FIR if any cognizable offence is made out. Thereafter, a case in Crime No.21 of 2013 for the offence under Sections 417, 109 IPC and Section 6(i)(a) of DP Act was registered by the seventh respondent.

5.It is the further case of the petitioner that the eighth respondent/ Inspector of Police in the seventh respondent Police Station colluded with the ninth respondent and insulted the petitioner. Hence, the petitioner preferred a complaint on 28.10.2013 to the respondents 1 to 5 seeking to take action against the eighth respondent and since there was no response, came forward to file this writ petition.

6.The learned counsel appearing for the petitioner would submit that initially the case in Crime No.21 of 2013 was registered by the seventh respondent for the offence under Sections 417, 109 IPC and Section 6(i)(a) of DP Act and thereafter, the same was altered to one under Sections 417, 376, 109 IPC and Section 6(i)(a) of DP Act r/w. Section 4 of TNPWH Act.

7.The learned counsel appearing for the petitioner would further submit that the eighth respondent was the Inspector of Police in the seventh respondent Police at the relevant point of time. Since the eighth respondent humiliated the petitioner and her family members, the petitioner preferred complaint as against the eighth respondent before the respondents 1 to 5 and since there was no action preferred this writ petition.

8.The learned counsel appearing for the petitioner would further submit that during the pendency of this writ petition, the fourth respondent presumed that nomination of some other investigation officer is essential and transferred the investigation of the case in Crime No.21 of 2013 to The Inspector of Police, S10 Pallikaranai Police Station (L & O).

9.The learned counsel appearing for the petitioner would further submit that the transfer of investigation itself shows that there was lack of investigation and humiliation by the eighth respondent. Hence, it is a fit case to issue direction to the respondents 1 to 5 to initiate disciplinary action as against the eighth respondent.

10.Per contra, the learned Special Government Pleader would submit that the petitioner lodged another complaint on 26.09.2013 raising additional grounds of accusations against the ninth respondent and also opted to file a petition in Crl.O.P.No.26174 of 2013 before this Court. Thereafter, the seventh respondent registered the case in Crime No.21 of 2013.

11.The learned Special Government Pleader would further submit that after registering of the case, the seventh respondent took sustained efforts to arrest the ninth respondent, however, she was not able to trace the whereabouts of the accused. In the meanwhile, the ninth respondent obtained anticipatory bail from this Court on 27.11.2013 in Crl.O.P.No.30491 of 2013.

12.The learned Special Government Pleader would further submit that the seventh respondent conducted a fair investigation according to law. However, the petitioner unnecessarily aggrieved over the investigation, has filed this writ petition.

13.The learned Special Government Pleader would further submit that the eighth respondent/ Inspector of Police in the seventh respondent Police Station herself expressed her willingness for nominating another investigation officer and hence, the case in Crime No.21 of 2013 was transferred to The Inspector of Police, S10 Pallikaranai Police Station (L & O).

14.Heard the arguments advanced on either side and perused the materials available on record.

15.In the counter affidavit filed by the fourth respondent, it is stated by the fourth respondent that he had perused the CD file and found that the investigation was on the correct lines. It is further stated that the investigation officer herself expressed her willingness for nominating another investigation officer and also submitted a requisition for nominating another investigation officer and accordingly, the case in Crime No.21 of 2013 was transferred to The Inspector of Police, S10 Pallikaranai Police Station (L & O) for further investigation.

16.Further, the issue raised in this writ petition is disputed question of fact which cannot be decided in a writ petition. Hence, the prayer sought for in this writ petition cannot be granted.

17.The writ petition is accordingly dismissed. However, if the petitioner is aggrieved, it is open to the petitioner to work out the remedy in the manner known to law. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Home Department,
Secretariat,
Fort St.George,
Chennai - 600 009.
2. The Director General of Police,
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+1cc to the Government Pleader, S.R.No.25872

W.P.No.31025 of 2013

VS (CO)
KKV/28/08/2020