



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

W.P (MD)No.10741 of 2020

and

WMP (MD)No.9459 of 2020

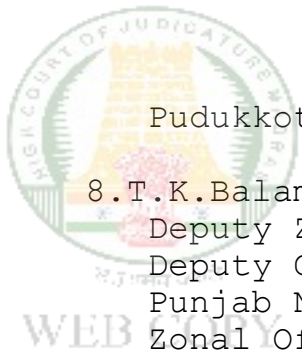
WEB COPY

M.Marimurugan

... Petitioner

Vs.

- 1.The Chairman & Managing Director,
Punjab National Bank,
Head Office,
7, Bhikhaji Cama Place,
New Delhi.
- 2.The General Manager,
Punjab National Bank,
Zonal Office,
46-49, Royapettah High Road,
Royapettah,
Chennai - 14.
- 3.The Deputy General Manager,
Punjab National Bank,
Circle Office,
179, Sarojini Street,
Ram Nagar,
Coimbatore - 641 009.
- 4.The Chairman,
National Commission for Schedule Castes,
Floor - 2, Block No.5, Sasthiri Bhavan,
Chennai - 600 006.
- 5.The Director General of Police,
Social Justice & Human Rights Wing,
Police Head Quarters,
Kamarajar Salai,
Mylapore
Chennai - 600 004.
- 6.The Superintendent of Police,
District Police Office,
Pudukkottai
- 7.The Inspector of Police,
Gandarvakottai Police Station,
Gandarvakottai,



Pudukkottai District.

8.T.K.Balamurugan,
Deputy Zonal Manager /
Deputy General Manager,
Punjab National Bank,
Zonal Office,
46-49, Royapettah High Road,
Royapettah,
Chennai - 14.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 4th respondent to initiate appropriate action against the 8th respondent invoking Article 338 of Constitution of India, based on the petitioner's representation, dated 10.11.2017.

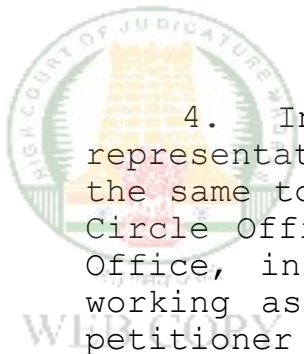
For Petitioner	: Mr.S.Radhakrishnan
For Respondents	: Mr.S.Chandrasekar
(R6 & R7)	Additional Public Prosecutor

O R D E R

This present Writ Petition has been filed praying for issuance of a Writ of Mandamus, directing the 4th respondent to initiate appropriate action against the 8th respondent by invoking the Article 338 of Constitution of India, based on the petitioner's representation, dated 10.11.2017.

2. The grievance of the petitioner is that he was working as a Manager (Agricultural) in Punjab National Bank, Palayamkottai. When at the time the petitioner was working in the Branch of Punjab National Bank, Punalkulam, he approached to meet the Circle Head Mrs. Latha, with his wife, who did not permit them to meet. So many grievances given by the petitioner was not redressed and in the meantime, again within four months, the petitioner had been transferred to Bikshandarkoil, Trichy and again on 04.11.2013, to Circle Office, Trichy. When at the time the petitioner was working in Trichy Circle Office, he has been deputed to Branch Offices of Tirunelveli, Periyasamiyapuram and Ambasamudram, for the purpose of processing the pending loan papers.

3. Though the work of the petitioner was appreciated by the higher officers, the Executive Director and Chairman and Managing Director, the Circle Head Mrs. Latha and her successor Mr.Dhamodharan, DGM, Circle Head did not encourage and also not permitted to meet them personally. When at the time of hearing the grievance, Mr.Damodaran, DGM, Circle Head, Trichy, uttered filthy language and asked him 'to resign the job and also further uttered either you resign or your wife to resign and what for you need of child'.



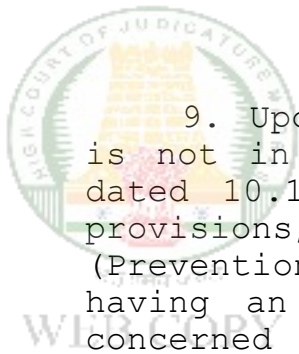
4. In the said circumstances, the petitioner made a representation to the first respondent and forwarded the copies of the same to the higher officers on 29.08.2014. In the meantime, the Circle Office, Trichy was closed and merged with Coimbatore Circle Office, in which, one Mr.K.G.Balamugundan, the 8th respondent, was working as Circle Head and he is the dishonest person. So, the petitioner avoided to meet him personally, whenever at the time who is visiting the bank in which the petitioner was working, he used to abuse the petitioner by mentioning the caste name in front of the customers and also awarded low performance marks.

5. So, the petitioner was compelled to made a complaint against him and accordingly on 21.11.2017, he made a complaint against the 8th respondent and sent the same to respondents 1 to 4. In the meanwhile, the Parliamentary Committee for Scheduled Caste, forwarded the representation given by the petitioner to the first respondent, as per the letter No.8(12)/SCTC/2018, dated 20.03.2018, for which, the 2nd respondent sent a reply on 31.08.2018. Subsequent to that, no action was initiated against the 8th respondent and therefore, the petitioner was compelled to send a further representation to the 5th to 7th respondents. But till date, no action was initiated for the reasons best known to them. Now, the 8th respondent is in Zonal Office, Chennai, as Deputy Zonal Manager.

6. In the said circumstances, based on the false allegations that the petitioner have not conducted pre-sanction and post-sanction inspections of loans granted in Punalkulam Branch, he was issued a charge sheet. In this connection, the petitioner is only a processing and recommending Manager (Agri) and not the sanctioning authority. The 8th respondent, misusing his official powers through certain branches heads, used to misappropriate bank money. Therefore, the petitioner prayed to pass an order of direction, directing the 5th and 6th respondents to take appropriate action against the 8th respondent, based on the representation given by the petitioner, dated 10.11.2017.

7. Today when the petition is came up for hearing, the learned counsel appearing for the petitioner made a submission in which he reiterated the averments made in the affidavit filed in support of the writ petition.

8. Per contra, Mr.S.Chandrasekar, the learned Additional Public Prosecutor, appearing for R6 and R7 would submit that the averments found in the representation dated 10.11.2017 may attract the penal provision, which comes under the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989. In the said circumstances, the petitioner is having the right to file a complaint before the Station House Officer of the concerned Police Station in which, the alleged occurrence had happened. Instead of choosing the alternative remedy, preferring this Writ Petition by the petitioner



9. Upon considering the arguments advanced by either side, it is not in dispute that the averments found in the representation dated 10.11.2017, given by the petitioner may attract the penal provisions, which comes under the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989, for which, the petitioner is having an option to approach the Station House Officer of the concerned Police Station and lodge a complaint before him. If the person who received the complaint has not initiated any action, another option is also available to the petitioner to approach the higher police officers. Moreover, he is having the right to file a complaint before the jurisdictional Court, under Section 156(3) Cr.P.C.,

10. But, here it is a case that without choosing the said remedy, the petitioner directly approached this Court, which is unwarranted. At this juncture, it is relevant and useful to refer the Division Bench Judgment of this Court in ***K.R.Prabhakaran v. The Commissioner of Police, Chennai and Anr.***, reported in **(2005 (2) L.W.(Cri) 549)**, wherein, this Court had clearly held that if the alternative remedy is available under Sections 156(3) and 200 Cr.P.C., the Writ jurisdiction is not maintainable. The relevant portion of the Judgment reads as follows:-

"3. In our opinion, if it is alleged that a crime has been committed and some one goes to file an F.I.R., and either the F.I.R. is not lodged at the police station, or, having been lodged, it is alleged that proper investigation is not being done by the police, then the remedy of the complainant is to make an application under section 156(3) Cr.P.C. before the Magistrate mentioning all these facts, and it is open to the Magistrate to direct the police to lodge the FIR and/or to do a proper investigation of the alleged crime. The Magistrate can also pass suitable directions to monitor the investigation if he thinks that it has not been properly held. Hence, in our opinion, the complainant has an equally efficacious remedy under section 156(3) Cr.P.C. to file a suitable application before the Magistrate. Apart from that he has also another alternative remedy of filing a private complaint under section 200 Cr.P.C. In view of these alternative remedies it is not a fit case for exercising our writ jurisdiction..."

11. Further, the Division Bench of this Court in the Judgment in ***G.Prabakaran Vs. Superintendent of Police, Thanjavur District***, reported in **(2018 (5) CTC 623)**, framed the following guidelines;-



"(i) Section 482 Cr.P.C. cannot be invoked in all circumstances.

(ii) It is not an alternative remedy to Section 156(3) Cr.P.C. but a repository of inherent power.

(iii) The normal course of remedy on a failure or refusal to record the information is Section 156(3) of the Code of Criminal Procedure after due compliance of Section 154(3) Cr.P.C.

(iv) A petition can be filed invoking the inherent jurisdiction of this Court only after the completion of 15 days from the date of receipt of the information by the Station House Officer. The Registry shall not receive any petition before the expiry of 15 days aforesaid.

(v) No petition shall be entertained without exhausting the remedy under Section 154(3) Cr.P.C.

(vi) An informant can send substance of the information to the Superintendent of Police on knowing the decision of the Station House Officer in not registering the case and proceeding with the preliminary enquiry. After conducting the preliminary enquiry, the Station House Officer's decision in either registering the complaint or closing it will have to be intimated to the informant immediately and in any case not later than 7 days. Once such a decision is made, the informant cannot invoke Section 482 Cr.P.C. as the remedy lies elsewhere.

(vii) The directions issued by the Director General of Police in the circulars referred are to be strictly complied with by all the Station House Officers.

(viii) The affidavit to be filed shall contain particulars regarding the date of complaint, receipt and the date of sending substances of the information to the superintendent of Police under Section 154 (3) Cr.P.C. and its receipt. The Registry shall not number any petition without due compliance.

(ix) This Court is not bound to direct the police to register the complaint in all cases notwithstanding the breach of time table furnished in Lalitha Kumari's case.

(x) The judicial Magistrates, while dealing the petitions under Sections 156(3) Cr.P.C. are

directed to keep in mind the narratives in



Lalitha Kumari's case with specific reference to the cases, which might require a preliminary enquiry before issuing a direction to investigate and after careful perusal of the complaint. The other directions issued by the learned Single Judge in Sugesan Transport's case are upheld.

(xi) Eschewing Section 156(3) Cr.P.C. is only on exceptional and rarest of rare cases. Monstrosity of the offence, extreme official apathy and indifference, need to answer the judicial conscience, and existence of hostile environment are few of the factors to be borne in mind to bring a case under the rarest of rare one."

12. So, the Judgments, now referred as above, are very clear that the petitioner is having an opportunity to file a complaint before the competent Court, having jurisdiction. In the said circumstances, instead of approaching the Court, which is having jurisdiction, the petitioner filed this Writ Petition is not maintainable and the same is liable to be dismissed.

13. In the result, this Writ Petition is dismissed with liberty to the petitioner file a complaint before the jurisdictional Magistrate under Section 156(3) of Cr.P.C. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CSIII)

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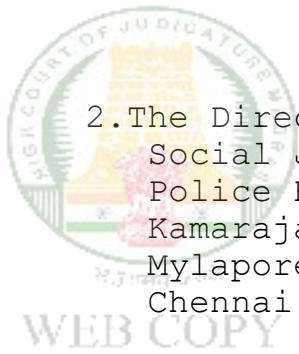
Sub Assistant Registrar(CS)

MPK

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Chairman,
National Commission for Schedule Castes,
Floor - 2, Block No.5, Sasthiri Bhavan,
Chennai - 600 006.



2.The Director General of Police,
Social Justice & Human Rights Wing,
Police Head Quarters,
Kamarajar Salai,
Mylapore
Chennai - 600 004.

3.The Superintendent of Police,
District Police Office, Pudukkottai

4.The Inspector of Police,
Gandarvakottai Police Station,
Gandarvakottai,
Pudukkottai District.

+1 CC to M/s.S. RADHAKRISHNAN, Advocate (SR-15885[F] dated
03/09/2020)

W.P (MD) No.10741 of 2020
02.09.2020

KB(11.09.2020) 7P 6C