



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2020

CORAM:

THE HONOURABLE **MR. JUSTICE A.D.JAGADISH CHANDIRA**

Writ Petition(MD)No.504 of 2019

and

W.M.P. (MD)Nos.419 and 420 of 2019

Mubarak Ali

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. The Superintendent of Police,
Theni District.

2.State of Tamil Nadu,
Rep. The Additional Superintendent of Police,
Prohibition and Excise Department,
Theni District.

3.The Deputy Superintendent of Police,
Uthamapalayam, Theni District.

4.M.Seemaichamy

... Respondents

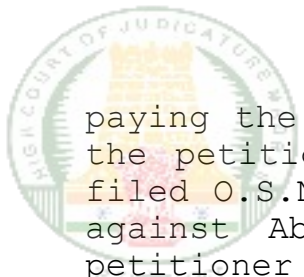
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, calling for the enquiry report of the second respondent, dated 18.11.2018 and quash the same and consequently, direct the first respondent to conduct enquiry afresh based on the petitioner's complaint dated 01.10.2018 and take disciplinary proceedings as against the fourth respondent.

For Petitioner : Mr.S.Balaji
For R1 to R3 : Mrs.S.Bharathi,
Government Advocate(Crl.side)

ORDER

This writ petition has been filed challenging the enquiry report of the second respondent, dated 18.11.2018 and consequently, seeking a direction to the first respondent to conduct enquiry afresh, based on the petitioner's complaint, dated 01.10.2018 and take disciplinary proceedings as against the fourth respondent.

2.The learned counsel for the petitioner would submit that the petitioner is running a Hotel business in the name and style of "Hotel Iniya" at Door No.155 A/17 W, Uthamapalayam Highways, Cumbum Town, Theni District and that the above said property belongs to one Mr.Abdulkani residing at Door NO.8/12 B, Miyakan Street, Cumbum, Theni District and that he has been running the business and after



paying the rents. During the year 2016, the dispute arose between the petitioner and the said Abdulkani and that the petitioner has filed O.S.No.41 of 2016, before the District Munsif, Uthamapalayam, against Abdulkani. On 10.06.2018, during Ramzan holidays, the petitioner had closed the hotel and gone to Chennai and when he had returned back to Cumbum on 19.06.2018, he was shocked to see that the door was brokeen and again closed with welding and that all the things from his hotel worth about Rs.4,00,000/- were illegally removed by the said Abdulkani and thereby, he had given the complaint. Based on the complaint, a case was registered in Crime No.319 of 2018, for the offences punishable under Sections 427 and 379 of IPC. He would further submit that the Inspector and the Sub-Inspector of Police attached with the Cumbum North Police Station have colluded with the accused persons and they have received bribe from the accused and they have not taken any further action on the petitioner's complaint and thereafter, the petitioner was illegally taken into custody and his wife had also filed H.C.P(MD)No.1063 of 2018, before this Court and the police officials secured the petitioner and produced him before the Court. He would further submit that the respondents have not conducted enquiry properly and that the complaint was closed and the respondents have filed the enquiry report stating that the petitioner has given a exaggerated complaint and thereby he filed a petition to quash the enquiry report.

3.The learned Government Advocate (Crl. side) would submit that based on the complaint given by the petitioner, due enquiry was conducted and finding that it was made with exaggerated allegation, the complaint was closed. If at all the petitioner is aggrieved, he is at liberty to approach the concerned Court by filing appropriate petition. Challenging the closure report and the present petition is not maintainable.

4.In the opinion of this Court, if the petitioner is aggrieved with the report he is entitled to challenge it by way of a protest petition before the appropriate Court.

5.In view of the same, the writ petition stands closed with liberty to the petitioner to challenge the enquiry report before the concerned court in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



1.The Superintendent of Police,
Theni District.

2.The Additional Superintendent of Police,
Prohibition and Excise Department,
Theni District.

3.The Deputy Superintendent of Police,
Uthamapalayam, Theni District.

Copy to: The Section Officer,
E.R. Section,
Madurai Bench of Madras High Court,Madurai.

+1 CC to M/s.S.BALAJI, Advocate (SR-2745[F] dated 24/01/2020)

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KK/SAR/10.02.2020/3P-6C/