



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 21.09.2021

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.NO.10377 OF 2015

AND

M.P.NO.1 OF 2015

A.Mohammed

...Petitioner

Vs.

- 1.The Secretary
Home Department
Fort St. George, Chennai.
- 2.Director General of Police
Kamarajar Road, Chennai.
- 3.The Commissioner of Police
Coimbatore City, Coimbatore.
- 4.Sekar

5.Ganesan

...Respondents

Prayer : Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 to 3 to initiate appropriate action and to conduct enquiry against the fourth and fifth respondents based on the representation dated 17.02.2015.

For Petitioner : Mr.C.D.Sugumar

For Respondents : Mr.C.Kathiravan
Government Advocate (for R1 to R3)
: Mr.A.Kumar (for R4 & R5)

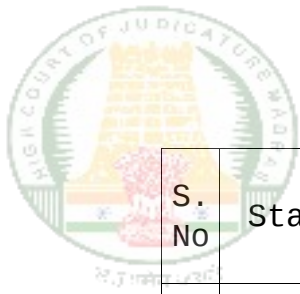


ORDER

The relief sought for in the writ petition is to direct the respondents 1 to 3 to initiate appropriate action and conduct enquiry against the respondents 4 and 5 based on the representation of the petitioner dated 17.02.2015.

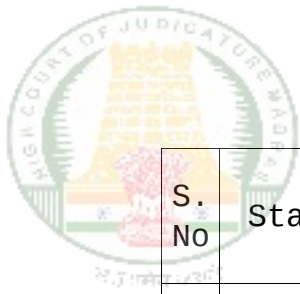
2. The grievances of the writ petitioner is that he has been implicated in couple of cases in smuggling of PDS rice from Coimbatore to various places. The petitioner states that the respondents 4 and 5 are pressurising the petitioner to take up the illegal activity of smuggling of PDS rice from Coimbatore to other places and to share the profits with them. The petitioner further states that he has totally changed his activities and doing a petty business taking into consideration the future of his child and his family, the petitioner refused the offer of the respondents 4 and 5. Enraged over the refusal to smuggle rice, the 5th respondent foisted a case as if the petitioner smuggled 7 tons of PDS rice. The said case was registered in Crime No.262 of 2014. The 5th respondent arrested the petitioner from his house and was produced before the Judicial Magistrate No.IV for remand with regard to the above case. The petitioner was discharged from the Hospital after the knee surgery during the relevant point of time and he was taking rest in his house as per the advise of the Doctors. Further, the learned Magistrate No.IV, who saw the legs of the petitioner with bandage, pulled up the 5th respondent for arresting the person who is medically ill without any reason and reprimanded the 5th respondent. The learned Magistrate granted bail to the petitioner immediately with the said Crime No.262 of 2014. The petitioner sent an elaborate representation to the respondents 1 to 3 and requested to initiate action against the respondents 4 and 5. In view of the fact that no action has been initiated, the petitioner is constrained to move the present writ petition.

3. The respondents 4 and 5 filed counter affidavit stating that the petitioner is actively involved in smuggling of PDS rice and in that connection, already seven cases are pending against the petitioner registered by the Tiruppur and Pollachi Civil Supplies CID of which the following five cases are pending trial before the Judicial Magistrate Court No.IV, Coimbatore.



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S. No	Station	Crime Number/Section of Law and Date	Vehicle Involved	Commodity Seized	Stage
1	Pollachi CS CID	364/12 u/s 6(4) of TNSC (RDCS) Order 1982 r/w 7(1)(a)(ii) of Essential Commodities Act 1955 & Dt. 29.12.2012	Tata 1109 Mini Lorry TN 37-BV-3332	9,650Kg of PDS Rice	Pending trial before JM IV, Court Coimbatore in C.C.No.1 9/14
2	Tiruppur CS CID	277/12 u/s 6(4) of TNSC (RDCS) Order 1982 r/w 7(1)(a)(ii) of Essential Commodities Act 1955 & Dt.09.09.2012	Hoarding and TATA Ace TN-55-P-2176	3,000 Kgs of PDS Rice	Pending trial before JM IV, Court Coimbatore in C.C.No.1 5/13
3	Tiruppur CS CID	09/13 u/s 6(4) of TNSC (RDCS) Order 1982 r/w 7(1)(a)(ii) of Essential Commodities Act 1955 & Dt.10.01.2013	Hoarding and TVS XL Super TN 39-AS-2362	3,250 Kgs of PDS Rice	Pending trial before JM IV, Court Coimbatore in C.C.No.4 1/13
4	Tiruppur CS CID	10/13 u/s 6(4) of TNSC (RDCS) Order 1982 r/w 7(1)(a)(ii) of Essential Commodities Act 1955 & Dt.10.01.2013	Omni Van TN-67-Y-0505 Abey Auto TN 39-AA-4710 Yamaha Bike TAC-2128 TVS XL Heavy Duty TN-33-AW-6651	2,250 Kgs of PDS Rice	Pending trial before JM IV, Court Coimbatore in C.C.No.4 4/13

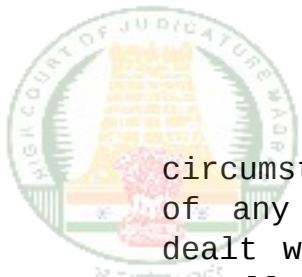


S. No	Station	Crime Number/Section of Law and Date	Vehicle Involved	Commodity Seized	Stage
5	Tiruppur CS CID	262/14 u/s 6(4) of TNSC (RDCS) Order 1982 r/w 7(1)(a)(ii) of Essential Commodities Act 1955 & Dt.25.07.2014	Ashok Leyland lorry TN-41-R-1760 and Mahindra Pickup Van TN-65-J-7695	7,550 Kgs of PDS Rice	Pending trial before JM IV, Court Coimbatore in C.C.No.6 2/15

4. The Superintendent of Police, Civil Supplies CID was also conducted an enquiry and submitted a report to the Additional Director General of Police stating that the complaint give by the petitioner is false.

5. Perusal of para 2 of the affidavit filed by the petitioner in support of the writ petition, it is stated that the respondents 4 and 5 are pressurising the petitioner to take up the illegal activity of smuggling of PDS rice from Coimbatore to other places and to share the profits with them. Undoubtedly, such an allegation is not only serious, the higher authorities are bound to enquire into the conduct of the officials against whom such an allegation is raised by a person, who has involved in some criminal cases on previous occasion. Undoubtedly, some other cases are also pending against the petitioner. Equally when a person has realised and has stated that he wants to change himself, at that point of time, the allegation is raised against the police officials, then a serious consideration is required and an enquiry is to be conducted in respect of said allegations.

6. The Police Authorities are enjoying special status in the Society by virtue of their position as Uniformed Services Personnel. Statutory powers are conferred on them and they are permitted to carry arms and ammunitions. Thus the power of Sword cannot be exercised for commission of irregular and illegal activities. Authorities exercising statutory powers are expected to be neutral, honest and dutiful. No doubt, the Police Authorities are dealing with crimes in the Society. Under these



circumstances, their active or passive collusion for commission of any such illegality must be seriously viewed and sternly dealt with. When the petitioner in the present case is raising an allegation against the respondents 4 and 5, by stating that they have insisted him to commit an offence, despite the fact that he is willing to lead a moral life. In such circumstances, the Higher Authorities of the Police Department are bound to conduct at least discreet enquiry to verify the conduct, credibility and integrity of those officials against whom such allegations are raised. If necessary, all appropriate actions are to be initiated.

7. The Superintendent of Police has already submitted a report to the Additional Director General of Police. However, a discreet enquiry regarding the conduct of such officials are certainly imminent. In respect of the petitioner herein, he is facing criminal trial in other cases. Thus, the relief, as such, sought for need not be granted at present. If at all the petitioner is having any other grievance in respect of any such similar activities of the police officials, he is at liberty to approach the Higher Authorities or Head of the Police Department for initiation of further action.

8. With these observations, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

Sgl

To

1. The Secretary
Home Department
Fort St. George,
Chennai.



2.The Director General of Police
Kamarajar Road,
Chennai.

3.The Commissioner of Police
Coimbatore City,
Coimbatore.

+1cc to the Government Pleader SR.No.49004

W.P.No.10377 of 2015

MG(CO)
RVM(05/10/2021)