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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.4499 of 2012

and

M.P.No.1 of 2015

N.Vengatraman

... Petitioner

.Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Home Department,
Fort St. George,
Chennai-9.
2. The Commissioner of Police,
Office of the Commissioner of Police,
Egmore, Chennai-8.
3. The Inspector of Police,
D-6 Anna square Police Station,
Chennai - 2.
4. Pugazhendi,
Deputy Commissioner of Police,
Office of the Joint Commissioner of Police,
East Zone, Chennai City Police,
Chennai.
5. Ramachandran,
Assistant Commissioner of Police,
Chennai City Police,
Chennai - 4.

... Respondents

PRAYER:-

Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the Respondents I, II and III to immediately register a FIR against Respondents IV and V on the basis of the complaint dated 02.01.2012 read with



complaint dated 06.01.2012 given by the petitioner to respondents I, II, and III, transfer the investigation to CBCID, direct investigation by an Officer of integrity not below the rank of respondents IV and V and direct the Respondents to pay the petitioner a sum of Rs. Twenty lakhs as compensation.

For Petitioner : Dr.V.Suresh

For Respondents : Mr.C.Kathiravan
Government Advocate
[For R1 to R3]

Mr.M.C.Swamy
[For R4 and R5]

ORDER

The relief sought for in the present writ petition is to direct the respondents I to III immediately register FIR against Respondents IV and V on the basis of the complaint dated 02.01.2012 read with complaint dated 06.01.2012 given by the petitioner to respondents I, II, and III, transfer the investigation to CBCID, direct investigation by an Officer of integrity not below the rank of respondents IV and V and direct the Respondents to pay the petitioner a sum of Rupees Twenty lakhs as compensation.

2. The learned counsel appearing on behalf of the petitioner made a submission that the petitioner is a practicing Advocate at Madras High Court. He enrolled in the Bar Council of Tamil Nadu on 07.08.2011. On 1st January, 2012, the petitioner along with his friends Sukumar and Nagaraj visited the Marina Beach, Chennai to spend the break of the New Year together. At about 1.30 p.m., the petitioner and his friends started walking along the inner road of the Marina Beach towards the lighthouse as they had parked his friend Sukumar's two wheeler there. The petitioner states that they were stopped by three Policemen, who were dressed in plain clothes. The Policemen asked the petitioner and his friends not to walk on the inner road and directed them to walk up on to the main road. The policemen were rude and the petitioner informed them that he was an Advocate and was a responsible person.

3. However, when the petitioner and his friends were walking, they were blocked by two Policemen in uniform. They used vulgar and disrespectful language and the wordy quarrel finally resulted attacking the petitioner by the Policemen. The



petitioner states that he was brutally attacked and he was admitted in the hospital and the injuries were recorded in the accident register. The petitioner lodged a complaint and submitted the representation to the High Court also. The Registrar General, High Court of Madras, forwarded the complaint to the Police authorities, who in turn, also conducted an enquiry.

4. Perusal of the counter affidavit filed by the respondents reveal that there was a free fight between two groups of people near the Marina Swimming Pool, and the armed police, who have deployed there rushed to the spot and made an attempt to separate the groups. One of the person shouted at Police by stating that he was an Advocate. However, he did not listen to anyone and behaved in an arrogant manner. He was started quarreling with everyone including the Policemen on duty. The situation become uncontrollable for the Armed Policemen on patrol. The third respondent/Inspector of Police, reached the sport and pacified them and brought the situation under control and diffused the crowd. One of the group started using filthy language against the Policemen and said that they were Advocates and no one can control them.

5. When different stories are made out both by the petitioner and by the Policemen, High Court cannot adjudicate such disputed issues in a writ proceedings under Article 226 of the Constitution of India. When there is a straight denial of allegations by the respondents and the statement of the petitioner is directly against the Policemen, then a trial is certainly imminent for the purpose of crystallizing the facts and circumstances. Such an exercise cannot be done in a writ proceedings.

6. The learned counsel for the petitioner made a submission that for registration of FIR, the petitioner has not initiated appropriate action under the Code of Criminal Procedure. However, the petitioner has chosen to file the present writ petition. But, the petitioner filed a complaint before the State Human Rights Commission, Tamil Nadu and the said facts are not stated in the affidavit.

7. The learned Government counsel appearing on behalf of the respondents furnished the copy of the order passed by the State Human Rights Commission on 02.08.2019 in SHRC Case No.9613 of 2012/C-3. The Human Rights Commission passed an order as under :

"Since he was not attending the Commission regularly in 2015, on 04.08.2015, the case was dismissed for default. Since the complainant filed a petition to reopen the case, on 22.12.2015



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his reopen petition was allowed and the case was taken up for enquiry.

Now also from 25.10.2018 to 20.06.2019 the complainant has not appeared before the Commission regularly. Therefore this Commission is of the view that the complainant is not interested in pursuing the case further.

In the circumstances, since no progress in this case, the commission has no option except to close the case and according, the case No. 9613 of 2012 is closed."

8. In view of the fact that the State Human Rights Commission, which is an appropriate Forum, considered the issues and made a finding that the complainant has not appeared repeatedly to pursue the matter and the Commission left with no option, but to close the case.

9. This being the factum established, on account of efflux of time and in view of the disputed facts, this Court is not inclined to consider the grounds raised in the writ petition.

10. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Government of Tamil Nadu,
Home Department,
Fort St. George,
Chennai-9.
2. The Commissioner of Police,
Office of the Commissioner of Police,
Egmore, Chennai-8.



3. The Inspector of Police,
D-6 Anna square Police Station,
Chennai - 2.

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+1cc to M/s.D.Nagasaila, Advocate, S.R.No.54398
+1cc to Mr.M.C.Swamy, Advocate, S.R.No.54312
+1cc to the Government Pleader, S.R.No.55018

W.P.NO.4499 OF 2012

RSV(CO)
PBS/11/11/2021