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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-12-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.34770 of 2015

Sai Lakshmi

..Petitioner

vs.

1. The Secretary to Government,
Home Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.
3. The Joint Commissioner of Police,
West Zone,
Office of Commissioner of Police,
Vepery, Chennai.
4. The Deputy Commissioner of Police,
Ambattur District,
Chennai.
5. Mr. Miller

..Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the second respondent to initiate disciplinary/departmental action as against the fifth respondent on petitioner's representation dated 31.08.2015.

For Petitioner : Mr.S.Shrenik Raj

For Respondents-1 to 4 : Mr.C.Sathish,
Government Advocate.

For Respondent-5 : No Appearance



O R D E R

The Writ of Mandamus has been instituted to direct the second respondent-The Commissioner of Police, Vepery, to initiate disciplinary/ departmental action against the fifth respondent based on the representation submitted by the petitioner on 31.08.2015.

2. The representation dated 31.08.2015 reveals that the husband of the petitioner one Mr.Loganathan was threatened by the Police and a false case has been registered against the husband of the petitioner.

3. The petitioner states that the Inspector of Police, K-4 Anna Nagar Police Station, Chennai commenced enquiry and registered a false case against the husband of the petitioner and the narration of facts in the complaint would reveal that there were several disputes in Real Estate Business and based on the complaint, actions were taken against the husband of the petitioner.

4. Those facts and the allegations against the Police Officials are absolutely not in connection with the criminal case. This Court do not find any excessiveness in the matter of enquiry or treating the husband of the petitioner. No doubt, the Police excessiveness is actionable. However, dealing with an accused person or conducting investigation or interrogation and the procedures followed at no circumstances be interfered with as the Criminal Law System require such an interrogation by the Police Authorities in a free and fair manner. Thus all actions regarding investigation and interrogation cannot be found fault with.

5. In the event of entertaining such writ petition against the Police Officials, undoubtedly, the Public Servants cannot perform their duties effectively and efficiently. In every case, the accused person will raise an allegation that the Police Officers have registered false case and they have been treated in a different manner, while conducting investigation or interrogation. Thus, all such allegations are to be gone into carefully, and not in a routine manner, where the Court can form an opinion that the Police Officers have committed the act of excessiveness.

6. Perusal of the complaint itself reveals that there are lot of disputes in the matter of Real Estate Business and the husband of the petitioner also had involved in a murder case and under those circumstances, filing of the writ petition by the wife of the accused person is to be construed as 'threatening litigation' to the Public Officials from performing their duties



efficiently.

7. The counter-affidavit filed by the fifth respondent also reveals many facts and the circumstances and it is stated that the husband of the petitioner had already involved in a murder case registered by the Inspector of Police in T-5 Thiruverkadu Police Station in Crime No.837/2012 under Sections 341, 324 and 302 IPC. In the said case, totally 17 accused including Thiru Sreenivasan and Tmt.Kavitha and Thiru Vimalraj (who were previously partners in the Real Estate Business) were entered into a criminal conspiracy and planned to murder one Thiru Govindaraj, who was also previously a partner in the Real Estate Business run by Thiru Sreenivasan, Tmt.Kavitha and Thiru Vimalraj.

8. The case has been charged and pending trial before the Additional Sessions Court No.II, Poonamallee, Chennai in S.C.No.76 of 2017. Apart from the murder case, the husband of the petitioner has also involved in K-4 Anna Nagar Police Station in Crime No.551/2015 under Sections 448, 294(b) and 506 (i) IPC read with Section 34 IPC on 11.07.2015. The husband of the petitioner also involved in a robbery case in T-5 Thiruverkadu Police Station in Crime No.879/2015 under Sections 294(b), 323, 336, 392 and 506(ii) IPC. In the said case, on 24.08.2015, the husband of the petitioner and his associate Thiru Vimalraj were arrested and remanded to judicial custody.

9. This Court is of the considered opinion that filing of writ petitions against the Public Officials are in an ascending order. In the event of investigation or interrogation of the accused by the Police Officials and based on the registration of criminal case, some of the relatives of the accused are filing the writ petition one way or the other and giving representation to the Commissioner of Police to initiate action against the Subordinate Police Officials. Such practices can never be encouraged by the High Courts and in the event of encouraging such affairs in the absence of any materials to establish the same would certainly discourage the Police Officials from performing their duties and responsibilities in an efficient manner.

10. Merely raising an allegation against the Police Officials are insufficient and it is for the Higher Authorities to monitor such instances. No doubt, the Higher Authorities are bound to look into the nature of the complaint and take decision based on the facts and circumstances of each case. However, filing the writ petition and seeking directions to initiate disciplinary/departmental proceedings cannot be entertained by this Court in a routine manner.



11. The learned counsel for the petitioner relied on the CCTV footage and made a submission that the husband of the petitioner was very much in the Office on the date and time of the incident of robbery. However, merely the CCTV footage cannot be trusted upon for the purpose of forming an opinion regarding the offences committed and it requires an elaborate trial with reference to the evidences and other factors. Further such an adjudication cannot be undertaken in the writ proceedings under Article 226 of the Constitution of India.

12. This being the facts and circumstances, this Court is of an opinion that the writ petition filed became unnecessary and such nature of writ petition filed with an idea to threaten the Public Officials or the Police Officials can never be entertained nor be encouraged. In such circumstances, the Courts are bound to impose exemplary costs.

13. In view of the fact that the counsel for the petitioner has made a submission that he is prepared to withdraw the writ petition, this Court is not inclined to impose costs on the petitioner.

14. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Secretary to Government,
Home Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police,
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Vepery, Chennai.
3. The Joint Commissioner of Police,
West Zone, Office of Commissioner of Police,
Vepery, Chennai.



4. The Deputy Commissioner of Police,
Ambattur District,
Chennai.

+1cc to Mr.S.Shrenik Raj, Advocate, S.R.No.65767

+1cc to the Government Pleader, S.R.No.65860

WP 34770 of 2015

KG (CO)
RGA (28/12/2021)