



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 12.03.2021

DELIVERED ON : 30.03.2021

CORAM :

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CrI.OP.(MD)No.1776 of 2021

L.N.Nithyanantham

... Petitioner

vs.

1.The State Represented by
The Superintendent of Police,
Pudukkottai District,
District Police Office,
Thirumayam Road,
Pudukkottai.

2.Inspector of Police,
District Crime Branch,
Pudukkottai District,
District Police Office,
Thirumayam Road,
Pudukkottai.

3.Dr.S.Ramadoss, M.B.B.S.,
Child Specialist,
Vaitheeswara Children Hospital,
New Street, Thirukornam (Post),
Pudukkottai.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to direct the second respondent police and their subordinates not to harass the petitioner for the purpose of enforcing the pre-drafted compromise deed dated 02.06.2020.

For Petitioner : Mr.P.Chandrasekaran

For Respondents : Mr.A.Robinson,
Government Advocate (Criminal Side)
for R1 and R2

Mr.K.Balasundaram for R3

ORDER

The case of the petitioner in nutshell.

The petitioner's father borrowed money from the third respondent Dr.S.Ramadoss during 2014 to meet his family and business

<https://hcservices.ecourts.gov.in/hcservices/>

expenses. Subsequently, he died of cancer in the year 2016. The petitioner also borrowed money from the third respondent to meet his business and family expenses. Whiles, the third respondent lodged a false complaint with the Inspector of Police, District Crime Branch, Pudukottai stating that the petitioner received a sum of Rs.1,50,00,000/- from the third respondent promising the latter that he would secure a job for his daughter-in-law. Based on this complaint, the second respondent called the petitioner to her office on 02.06.2020 for an enquiry and harassed him. He was also threatened by the second respondent with dire consequences and the entire episode was video graphed on the latter's (second respondent) instructions. The petitioner was also forced to sign a compromise deed on 02.06.2020, which was pre-drafted to suit the convenience of Dr.S.Ramados. Two witnesses by names D.Radhakrishnan and S.P.Karuppaiah signed the same at District Crime Branch Office, Pudukottai. According to the petitioner, the police had assumed jurisdiction over a civil dispute and also forced the petitioner to sign a pre-drafted compromise deed. The representation submitted by the petitioner to the first respondent, the Superintendent of Police, District Crime Branch in Ref.No.1591/8/7/2020 did not evoke any response. Due to the pressure exerted by the third respondent, the petitioner sent a Demand Draft for Rs.8 lacs on 13.08.2020. Subsequently, the second respondent once again called the petitioner from her mobile phone number 9345215537 at 10.53 AM and threatened the petitioner to settle the amount due and payable to the third respondent. He has therefore, filed the present petition seeking for a direction to the second respondent not to harass the petitioner.

2. The second respondent filed a status report with the following contentions.

(i) The third respondent lodged a complaint against the petitioner with the first respondent, the Superintendent of Police, District Crime Branch stating that the petitioner received a sum of Rs.1,52,00,000/- promising him that he (petitioner) would secure a Government job for his daughter-in-law. However, he did not secure his daughter-in-law any Government job and also did not return the money. The said complaint was forwarded to the second respondent vide proceedings of the first respondent in Na.Ka.No.260/SP/PDK/GDP/2020 dated 01.06.2020.

(ii) The second respondent took appropriate action keeping in mind the guidelines issued in Lalitha Kumari Vs. Government of Uttar Pradesh reported in (2014) 2 SCC 1 and conducted an enquiry on 02.06.2020.

(iii) However since both the parties informed the second respondent that a compromise deed was executed in the presence of VIPs and Panchayatdhars, the complaint was closed on the same day, ie., 02.06.2020.

(iv) The second respondent never threatened the petitioner to sign a compromise deed dated 02.06.2020 at the office of the

District Crime Branch, Pudukottai.

(v) The subsequent representation of the petitioner to the first respondent was closed on 05.08.2020 since the petitioner introduced some new facts with respect to the petition which was disposed of on 01.06.2020.

(vi) The Inspector of Police, Tmt.Anitha Arockiya Mary never insisted the petitioner to settle the amount due to the third respondent since even as per the averment of the petitioner, he paid a sum of Rs.8 lacs only on 13.08.2020.

(vii) The third respondent also requested the second respondent to close his petition on 26.02.2021 and accordingly the same was closed.

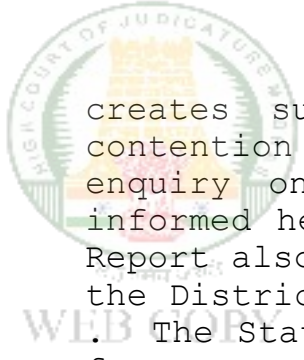
(viii) In order to avoid liability to pay the amounts due to the third respondent as per the compromise deed dated 02.06.2020, the present petition is filed.

(ix) There is also a criminal case pending against the present petitioner in Crime No.5 of 2017 of Vigilance and Anti Corruption, Thiruvannamalai Detachment for the offences punishable under Sections 120(B), 465, 468, 471 and 409 of the Indian Penal Code, under Section 13(2) read with 13(1)(c) and 13(1)(d) of the Prevention of Corruption Act, 1988 read with 109 of the Indian Penal Code.

The second respondent therefore prayed for dismissal of the present petition.

3. At the outset, it may be observed that when the petitioner contends that he was coerced to sign a pre-drafted compromise deed on 02.06.2020 at the Office of District Crime Branch, Pudukottai in the presence of two witnesses produced by the third respondent, the second respondent contends that on 02.06.2020, both the petitioner and the third respondent represented that the matter was already settled between them by executing a compromise deed in 100 rupees stamp paper in the presence of VIPs and Panchayatdharas. However, in paragraph 9 of the status report, it is contended by the second respondent that the petitioner has introduced a new fact in his representation dated 08.07.2020 addressed to the first respondent with regard to the petition filed by Dr.Ramadoss, though it was closed on 01.06.2020 itself. At the same breadth, in paragraph 11 of the status report, it is stated that on 26.02.2021, the complaint lodged by Dr.Ramadoss (third respondent) was closed on his request.

4. It is admitted that on 02.06.2020, the petitioner was called by the second respondent to the Office of District Crime Branch, Pudukottai. In the compromise deed dated 02.06.2020, the left and right hand thumb impressions of the petitioner were obtained. Though the compromise deed reads that since the petitioner was examined by the police on 02.06.2020, the petitioner and the third respondent resolved their dispute in the presence of some important persons in the locality, the names of the VIPs are not disclosed in the compromise deed. Therefore, the alleged compromise deed itself



creates suspicion in the mind of this court. Moreover, the contention of the second respondent is that even at the time of enquiry on 02.06.2020, the petitioner and the third respondent informed her about the execution of a compromise deed. The Status Report also does not disclose the time of entry of the petitioner to the District Crime Branch Office as well as his exit from the office. The Status Report is bereft of vital particulars. This is apart from many contractions found in the Status Report. The third respondent's counsel contended that the police complaint lodged by the third respondent was closed on 26.02.2021 and that he never exerted any pressure on the petitioner. However, the third respondent did not file a separate counter though the case was posted for final hearing on 12.03.2021.

5. The function of resolving civil disputes is entrusted to the Judiciary and the Police Officers lack jurisdiction in civil cases. No person can be forcibly summoned to a police station except in accordance with law, including the provisions of the Code of Criminal Procedure. This Court has examined the illegal and high handed acts of the second respondent in orally summoning and counselling the petitioner at her office to settle the amounts due to the third respondent. The second respondent even without registering the complaint of the third respondent under Section 154 (1) of the Code of Criminal Procedure has literally done a "kattapanchayat" at the Police Station.

6. In the decision in G.Sagar Suri vs. State of Uttar Pradesh and others reported in (2000) 2 SCC 636, the Hon'ble Supreme Court observed that "It is to be seen that a matter, which is essentially of civil nature has been given a cloak of criminal offence, Criminal proceedings are not a shortcut of rather remedies available in law". Courts have time and again deprecated the initiation of false criminal proceedings in cases having elements of a civil dispute. The quick relief offered by a criminal prosecution as opposed to a civil dispute incentivizes the litigant to initiate false and vexatious proceedings. Moreover, in a country suffering the scourge of the world's largest backlog of cases, litigants often view criminal proceedings as a tool to pressurize and threaten the other party to enter a favourable settlement.

7. Similarly, in M/s.Indian Oil Corporation vs. M/s.NEPC India Limited and others reported in (2006) 6 SCC 736, the Supreme Court held that,

"13....it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also,



leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged."

The contradictions in the status report of the second respondent are glaring. It is crystal clear that the third respondent wielded his influence to involve police officials in a civil dispute with the petitioner and in turn the police officials used intimidatory tactics which is not acceptable in any manner. It is also clear that the petitioner had initially succumbed to pressure tactics by signing a compromise deed, the contents of which were not agreed by him and also was made to issue a cheque of Rs.8 lacs in order to buy a temporary peace. It is shameful that law enforcers became law unto themselves crossing their boundaries knowing fully well that they had no business to intervene. This Court views the acts of the first and second respondents with utmost disfavour and directs the Director General of Police to initiate disciplinary action against the concerned Inspector of Police to ensure that it acts as a deterrent for any police official who breaks the law.

8. In the result,

(i) The compromise deed dated 02.06.2020 is quashed.

(ii) The Director General of Police is directed to initiate departmental proceedings against the concerned Inspector of Police, District Crime Branch, Pudukottai within a period of two weeks from the date of receipt of a copy of this order / uploading of the order.

(iii) The second respondent is directed not to harass the petitioner on the basis of the compromise deed dated 02.06.2020.

(iv) The Criminal Original Petition is allowed.

Sd/-

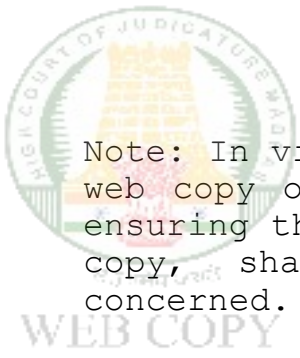
Assistant Registrar(CS-III)

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/ /2021

Sub Assistant Registrar(CS)

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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 Superintendent of Police,
Pudukkottai District,
District Police Office,
Thirumayam Road,
Pudukkottai.
- 2.The Inspector of Police,
District Crime Branch,
Pudukkottai District,
District Police Office,
Thirumayam Road,
Pudukkottai.
- 3.The Director General of Police,
Mylapore, Chennai
- 4.The Superintendent of Police,
District Crime Branch,
Pudukkottai District.

+1 CC to M/s.P.CHANDRASEKARAN, Advocate (SR-14420[F] dated 30/03/2021)

Order in
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30.03.2021

VR (CO)
TR(17.04.2021) 6P 6C