



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 06.09.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

W.P. (MD)No.12703 of 2021

and

WMP(MD)Nos.9900 & 11469 of 2021

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C.Rajkumar @ Kodiyan kulam Kumar

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Home Department,
Secretariat, Chennai.
- 2.The State of Tamil Nadu,
Represented by its Director General of Police,
Beach Road, Chennai.
- 3.The State of Tamil Nadu,
Represented by its District Collector,
Tirunelveli District,
Tirunelveli.
- 4.The State of Tamil Nadu,
Represented by its Commissioner of Police,
Tirunelveli City,
Tirunelveli.
- 5.Mr.Kapil Kumar C.Saratkar, IPS,
The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.
- 6.The Inspector of Police,
Medical College Police Station,
Palayamkottai,
Tirunelveli District.

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order dated 09.08.2018 vide C.No.G5/18978/2018 on the file of the 4th Respondent and quash the same and further directing the Respondents to provide protection to the petitioner and the petitioner's family members by considering the petitioner's representation dated 13.10.2018 & 06.01.2020.



For Petitioner : Mr.I.Robert Chandrakumar

For Respondents : Mr.R.M.Anbunithi,
Additional Public Prosecutor

O R D E R

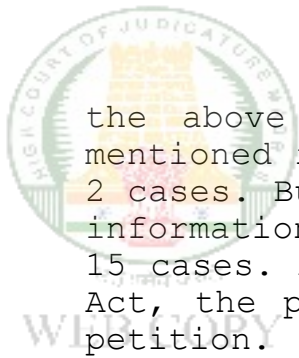
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This Writ Petition is filed to quash the impugned order, dated 09.08.2018, vide C.No.G5/18978/2018, on the file of the 4th Respondent and further to direct the Respondents to provide protection to the petitioner and the petitioner's family members, by considering the petitioner's representations, dated 13.10.2018 & 06.01.2020.

2. The case of the petitioner in brief:-

The petitioner belongs to schedule caste community. There was a land dispute between him and one Balamurugan. The above said Balamurugan is the cousin brother of one Advocate Balaganesan and one Rocket Raja is the brother of the above said Balaganesan. A suit in O.S.No.476 of 2017 was filed by the petitioner regarding the above said land dispute. The above said Rocket Raja threatened the petitioner to withdraw the suit, otherwise, he will be killed. He is a notorious person having several criminal cases including murder cases. So, the petitioner lodged a complaint against him. On 26.02.2018, at about 07.45 a.m, at the instigation of the above said persons, their henchmen trespassed into the house with deadly weapons and explosive substances and murdered his son-in-law. Later, it came to know that they had mistakenly murdered him instead of the petitioner. So, a case was registered in Crime No.30 of 2018 for the offences under Sections 147, 148, 447, 294(b), 324, 302, 506(2), 120 (b) of IPC and Section 3 and 4A of the Explosive Substances Act, 1908 and Section 3(1) (r) , 3(1) (s) & 3 (2) (v) of the SC/ST (Prevention of Atrocities) Act, 1989. After completing the investigation a final report was also filed before the II Additional District Court (PCR), Tirunelveli., which was taken on file in S.C.No.68 of 2018. Now, it is pending.

3. There are totally 13 accused persons in the above said murder. After the period of six months, they were arrested and released on bail. The family members of the petitioners are receiving threat from the unknown persons. So, a representation was made by the him seeking police protection. But, the same was objected, on the ground that the petitioner had involved in more than 15 criminal cases. Only on that basis, the request has been rejected by the impugned order. Seeking a similar protection order, the daughter of the petitioner filed a petition in CrI.OP(MD) No.12512 of 2018 before this Court and by the order, dated 23.07.2018, directed the fourth respondent to consider the representation and pass orders on merits. In pursuance of the same,



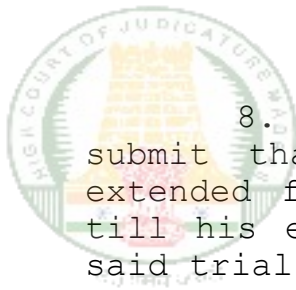
the above said impugned order has been passed and in 15 cases mentioned in the impugned order, the petitioner has involved in only 2 cases. But, in other cases, mistakenly, due to similarity of name, information has been furnished as if, the petitioner is involved in 15 cases. As per the provisions of SC/ST (Prevention of Atrocities) Act, the petitioner is entitled for proper protection. Hence, this petition.

4. Elaborate counter has been filed by the sixth respondent setting out the details of the events as well as the particulars of the case, in which, the petitioner is involved. In the counter, it has been mainly stated that originally, soon after the above said murder incident, protection by the Armed Police Personal and Bandobust was withdrawn after the tense situation went down. So, the police protection is provided throughout the day and night using the Patrol-8 vehicle and with the service of Beat-14 in and around Annai Indra Nagar area, wherein, the petitioner is residing. No doubt, the petitioner is involved in 14 criminal cases, such a person is not entitled for the Armed Police protection. But, however, in the concluding para of the counter, it has been stated that the petitioner's involvement in the 3 cases have been confirmed. In other cases, it is unconfirmed because, it has been verified only from TVMCH Police Station. So, it is expressed that, only 3 cases are pending against the petitioner. According to the petitioner, only two cases are pending are not heinous. Whatever it may be, for the purpose of granting the police protection, the only ground that can be made available is threat perspective.

5. The learned counsel for the petitioner would submit that already an attempt, on the life of the petitioner was made by the accused persons. But, due to the wrong identification, his son-in-law was murdered. Now, the case is pending before the concerned Court and he has to give evidence. In such circumstances, under the provision of Prevention of Atrocities SC/ST Act, he entitled for protection because there is a life threat at the hands of the accused.

6. According to the petitioner, the accused persons in the above said murder case are notorious in nature. So, the life threat cannot be ruled out. It is also seen that soon after the above said murder, Armed Police Guard and bandobust was provided at the residence of the petitioner. But, later, it has been withdrawn as stated above.

7. Now, the respondent would say that they are ready to provide police protection to the limited extent, as mentioned in the counter and Armed Police protection is not possible, since he has involved in number of criminal cases. If such a person was given any police protection, that will send a wrong message to the Society.



8. But, however, the learned counsel for the petitioner would submit that even if round the clock police protection is not extended for a limited period, protection can be extended to him till his evidence is recorded before the Trial Court in the above said trial proceedings.

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9. He would straightaway rely upon Section 15 (A) (1) of the Scheduled Caste and the Scheduled Tribe (POA), 1989. A reading of the provision makes it clear that it is the duty of the State to give proper protection to the victims, dependents and witnesses against any kind of intimidation, coercion or inducement or violation or threat and Section 15 Clause 6 give complete protection to secure the ends of justice. So, a complete reading of this provision shows that the petitioner and his family members must be properly protected.

10. The involvement of the petitioner in the criminal cases are in Crime No.465 of 2013 under Section 107 Cr.PC, Crime No.34 of 2015 under Sections 120(B), 420, 416 and 506(i) IPC and Crime No.413 of 2013 under Sections 147, 148, 448, 294 (b), 307 and 506 (ii) IPC.

11. According to the respondent in these 3 cases, the identification has been confirmed. In one of the cases, Section 307 IPC is included. It appears that the petitioner is involved in more than one criminal case. But, now, the problem is that he is facing life threat at the hands of the above said accused persons. As mentioned above, the attempt made on his life failed. Again, another attempt on his life should be prevented. That is the concern of the petitioner equally it might be the concern of the respondent also.

12. Taking into the consideration of totality of the circumstances and the limited request that is made by the learned counsel for the petitioner, I am of the considered view that the following directions will be sufficient to meet the ends of requirement of the petitioner also.

(i) Police protection may be provided to the residence of the petitioner by providing Patta Book in the residence of the petitioner, frequent visit must be made by the police personnel.

(ii) Police protection may be given to the petitioner and to the other witnesses when they attend trial proceedings before the concerned Court.

(iii) The surveillance and other benefits, which have been now provided, shall be continued. It is made clear that the Armed Police protection is not ordered.

13. If any clarification is required on this direction, the parties are at liberty to approach this Court, at any time.



14. With the above said directions, this Writ Petition stands allowed. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-II)

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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 Secretary,
State of Tamil Nadu,
Represented by its
Home Department,
Secretariat, Chennai.
- 2.The Director General of Police,
Beach Road, Chennai.
- 3.The District Collector,
Tirunelveli District.
- 4.The Commissioner of Police,
Tirunelveli City, Tirunelveli.
- 5.The Inspector of Police,
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