



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2021

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**
W.P. (MD)No.20426 of 2017

WEB COPY

M.Kananathan

... Petitioner

Vs.

1.The Principal Secretary,
Home Department,
State of Tamil Nadu,
Secretariat, Fort.St.George,
Chennai.

2.The Director General of Police,
Office of the Director General of Police,
Beach Road,
Chennai.

3.The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram District.

4.The Inspector of Police,
Thiruvadanai Police Station,
Ramanathapuram District.

5.Vijayakumar
6.Bhuvaneshwari

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 3 to take departmental proceedings against the respondents 5 and 6, as per the dictum laid down by the Hon'ble Supreme Court in the case of ***Lalita Kumari vs. Government of Uttar Pradesh*** and others reported in ***2013 (6) CCT 353***.

For Petitioner: Mr.I.Sabeer Mohamed

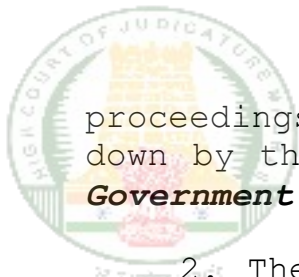
For R1 to R4 : Mr.C.M.Marichelliah Prabhu

Additional Government Pleader

For R5 and R6 : No Appearance

O R D E R

This writ petition has been filed for issuance of a Writ of Mandamus directing the respondents 1 to 3 to take departmental
<https://hcservices.ecourts.gov.in/hcservices/>



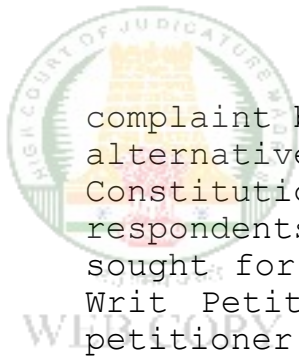
proceedings against the respondents 5 and 6, as per the dictum laid down by the Hon'ble Supreme Court in the case of ***Lalita Kumari vs. Government of Uttar Pradesh*** and others reported in **2013 (6) CCT 353**.

2. The case of the petitioner is that he belongs to Scheduled Caste Community and there was a dispute between the petitioner and his sister and a civil suit in O.S.No.89 of 2017 is pending before the District Munsif Court, Thiruvadanai. While so, on 21.09.2017, at about 10.30 a.m., one Shanmugam along with some other persons came in a vehicle and trespassed into the petitioner's land and destroyed the field. Immediately, the said incident was informed to the police and the police personnel came to the spot and obtained a complaint from the petitioner. However, the sixth respondent did not register F.I.R. Then, on 23.09.2017, the petitioner approached the third respondent and lodged a detailed complaint and the third respondent directed the petitioner to appear before the fifth respondent. On 24.09.2017, the petitioner appeared before the fifth respondent and the fifth respondent threatened the petitioner to give a fresh complaint against his sister and her children. On 27.09.2017, the petitioner approached the third respondent and lodged a complaint and the third respondent has forwarded the complaint to the Additional Superintendent Vellathurai, who visited the scene of occurrence and enquired about the incident. However, the respondents 5 and 6 have not registered the F.I.R. Hence, the petitioner has made a representation dated 26.10.2017, to the respondents 1 to 4, requesting them to take disciplinary action against the respondents 5 and 6. However, till date no action was taken. Therefore, the petitioner has filed the present writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that this Court may issue a direction to the respondents 1 to 4 to consider the petitioner's representation, dated 26.10.2017, on merits and in accordance with law, within a specified period.

4. Heard the learned counsel for the petitioner, learned Additional Government Pleader appearing for the respondents 1 to 4 and perused the materials available on record.

5. Considering the facts and circumstances of the case, admittedly, the petitioner has filed a complaint before the Law Enforcing Agency. The grievance of the petitioner is that the Law Enforcing Agency has not registered the complaint and forced the petitioner to give a fresh complaint against his sister and her children. Hence, the petitioner has filed the present writ petition for taking disciplinary action against the respondents 5 and 6. However, a perusal of Section 154(3) of Cr.P.C. reveals that if any person is aggrieved by a refusal on the part of an officer in charge of a police station to record the information, a complaint shall be given in writing or by post to the Superintendent of Police concerned and even then the petitioner is entitled to file a private



complaint before the jurisdictional Court. Without availing the said alternative remedy, approaching this Court under Article 226 of the Constitution of India for taking disciplinary action against the respondents 5 and 6, is not sustainable one. Hence, the prayer sought for in this writ petition is misconceived. Accordingly, this Writ Petition is dismissed. However, liberty is granted to the petitioner to work out his remedy, in accordance with law. No costs.

Sd/-

Assistant Registrar (CS I)

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/ /2021

Sub Assistant Registrar(CS)

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To

- 1.The Principal Secretary,
Home Department,
State of Tamil Nadu,
Secretariat, Fort.St.George,
Chennai.
- 2.The Director General of Police,
Office of the Director General of Police,
Beach Road, Chennai.
- 3.The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram District.
- 4.The Inspector of Police,
Thiruvadanai Police Station,
Ramanathapuram District.

+1 CC to M/s.SPL GP (SR-12511[F] dated 19/03/2021)

W.P. (MD)No.20426 of 2017
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KK(21.06.2021) 3P 6C