



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

W.P.No.3323 of 2022

M.Ajmal Khan
President,
WAQF Protection Forum,
No.57/A, Katrapalayam Street,
Periyar Bus Stand, Maduri-625 001,
and having Office at
No.151/313, Thambu Chetty Street,
Chennai- 600 001.

...Petitioner

Vs.

1.The Director General of Police,
Tamil Nadu Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600004.

2.Abdul Rahman,
Chairman, Tamil Nadu Waqf Board,
No.1, Haffer Syrang Street,
Vallal Seethakathi Nagar, Chennai-600 001.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Mandamus or directing the first respondent to consider the petitioner's representation dated 02.12.2021 to the first respondent to take necessary action against the second respondent.

For Petitioner : Mr.Kanz Mohamedi

For R1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

For R2 : No appearance

O R D E R

This Writ Petition has been filed to direct the first respondent to consider the petitioner's representation dated 02.12.2021 to the first respondent to take necessary action against the second respondent.



WEB COPY

2. The case of the petitioner is that the petitioner is the President of Waqf Protection Forum which is registered as a Trust by Document No.546 of 2018 and having office at No.151/313, Thambu Chetty Street, Chennai. One Abdul Rahman/Second respondent was appointed as a Member of the Tamil Nadu Waqf Board on 13.07.2021 and later, he was elected as its Chairman. It is the grievance of the petitioner that after elections, the said Abdul Rahman / Chairman of the Waqf Protection Forum, has been flying the National Flag in his official Car and was also using a beacon light on top of his official car in violation of Government Orders and in violation of Flag Code of India, 2002, which is an offence under the Prevention of Insults to National Honour Act, 1971. In respect of the violations, the petitioner has given a representation to the first respondent on 02.12.2021, to take action against the said Abdul Rahman/R2. However, since, no action has been taken by the first respondent, this writ petition has been filed.

3. Mr.A.Gokulakrishnan, learned Additional Public Prosecutor would submit that the petitioner had straight away filed a complaint before the Director General of Police without approaching the jurisdictional Police. He would further submit that the petitioner instead of filing a petition to register a case has camouflaged and filed as a writ petition and he would pray for dismissal of the petition.

4. Heard the learned counsel and perused the entire materials available on record.

5. The petitioner, instead of preferring the complaint to the jurisdictional Police, has given a complaint straight away to the Director General of Police. In the event of failure of the respondents to register a case, the petitioner ought to have approach the jurisdictional Magistrate concerned under Section 156 (3) Cr.P.C for registration of case. The petitioner has neither approached the jurisdictional Police nor approached the Court concerned, he has filed the present writ petition.

6. This petition is not maintainable, in view of the Order passed by a Hon'ble Division Bench of this Court in G.Prabhakaran v. The Superintendent of Police, Thanjavur, reported in (2018) 2 LW CrI 489. The Hon'ble Supreme Court in its latest judgment rendered by a three Judge Bench in M.Subramaniam v. S.Janaki reported in (2020) 5 CTC 464, after relying upon Sakiri Vasu Case, has categorically held that the High Court cannot issue any direction for registration of FIR in exercise of its jurisdiction under Section 482 of Cr.P.C. The Hon'ble Supreme Court held that the informant has to necessarily avail of the alternative remedy provided under Section 154 (3) of Cr.P.C., and Section 156 (3) of Cr.P.C. Liberty is given to the petitioner to workout his remedy as



per the directions issued by the Hon'ble Division Bench in the order referred supra.

7. Accordingly, this Writ Petition stands dismissed.
No costs.

WEB COPY

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

psa/ham

To

1. The Director General of Police,
Tamil Nadu Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600004.

2. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.H.Mohamed Ghose, Advocate SR. No.10875

W.P.No.3323 of 2022

BR (CO)

PR (14/03/2022)