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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 18.3.2022.

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

WRIT PETITION NO.5931 OF 2022

AND

W.M.P.NOS.6613 AND 6619 OF 2022

A.Abdul Rahim

Petitioner

vs.

1. The Director General of Police,
Police Headquarters,
No.1, Radhakrishnan Salai,
Mylapore, Chennai 600 004.
2. The Commissioner of Police,
EVK Sambath Road, Vepery,
Chennai-600 007.
3. The Deputy Commissioner of Police,
Pulianthope Cooks Road, Otteri,
Chennai-600 012.
4. The Inspector of Police,
P-6 Kodungaiyur Police Station,
Chennai-600 118.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus to direct the 1st respondent to transfer the investigation from fourth respondent to CBCID or any other independent investigating agency under the supervision of the 1st respondent and complete the investigation and file final report within a stipulated time frame fixed by this court and alter the FIR in Cr.No. 143/2022 on the file of the 4th respondent police by including the Sections 307, 506 (ii), 325, 326, 341, 294b, 295A, of I.P.C and other similarly placed sections whichever are attracted in the facts of the case.

For Petitioner : Mr.T.Mohan for
Mr.M.Velmurugan

For Respondents : Mr.A.Gokulakrishnan, APP



who hails from a poor family and pursues his studies simultaneously by working in part time and who is very eager to devote his services to the legal fraternity, was foisted with a false case by some police personnel belonging to the fourth respondent police station and humiliated and assaulted brutally by detaining him in the police station and thereafter remanded to judicial custody for a trivial issue viz., not wearing the mask properly.

4. The learned counsel for the petitioner would further submit that after coming out on bail, the petitioner had to give complaints one after the other against the erring police officials and took much pains to have it registered as FIR, however, the offences mentioned in the FIR was not in consonance with the complaint of the petitioner and that the CCTV footages had also not been recovered from the Police Station concerned and finding that the investigation had not been done in a proper manner and the third respondent had been trying to shield and protect the police officials, the petitioner had sent a representation to the second respondent seeking transfer of investigating agency and since it was not heeded by the second respondent, the petitioner is constrained to approach this court seeking a direction for transfer of investigating agency with an interim Application seeking a direction to preserve the CCTV footage.

5. Learned Additional Public Prosecutor would submit that the investigation had already been done by the third respondent and the CCTV footage had already been secured and sent to the Forensic Lab. He would further submit that the investigation is being done in a fair manner and two delinquent officials had been suspended, however, he would submit that if the petitioner is not satisfied with the action taken by the respondents, the respondents have no objection in the case being transferred to any superior officer equivalent to the rank of Deputy Commissioner of Police.

6. At this stage, the learned counsel for the petitioner would submit that though the petitioner had made specific allegations against two named and 7 unnamed police officers, only two delinquent police officials alone have been suspended and thereby he would insist for transfer of investigating agency.

7. Heard the learned counsel appearing for the parties and perused the materials available on record.

8. A perusal of the complaint lodged against the petitioner, which is the root cause for the entire episode, reveals that the petitioner was intercepted by the police personnel of the fourth



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respondent police station on their routine check up for preventing violation of pandemic restrictions and a fine was sought to be imposed by them on the petitioner for non-wearing of mask and roaming in the public during the pandemic period and thereupon, the petitioner had squabbled with the police personnel which, ultimately ended in the petitioner being taken to custody of the respondent police and a case in Crime No.117 of 2022 being registered against the petitioner for offences punishable under Sections 341, 294(b), 353, 332, 506(i) IPC.

9. Whereas, a perusal of the detailed complaint lodged by the petitioner against the erring police officials narrates the brutality of the police officials against the petitioner. The Discharge Summary of the petitioner reveals that he was admitted in Hospital for a week's time. It speaks much about the uncivilized demeanour of the respondent police. The injuries sustained by the petitioner cannot be ignored as a myth. Assuming for a moment that the petitioner had some arguments with the police personnel on being intercepted, the manner in which, he was treated is certainly an unpleasant one.

10. Considering the emotional imbalance the police personnel undergoes due to their work nature, refresher/orientation programmes are being conducted for them regularly to develop stress management and people-friendly behaviour, however, some untoward incidents take place every now and then. No one is above the law including the lawmakers. Whiles, the police being the executing authority and entrusted with the power and major responsibility to maintain law and order and control the crimes in the society, should not act in a highhanded manner exhausting their efficiency in such petty issues.

11. In the case on hand, finding some truth in the allegations of the petitioner, the respondent police have already initiated action against two delinquent police officials, however, it appears that more number of police officials are involved in the assault and humiliation of the petitioner. Therefore, considering the balance of convenience, this court is of the view that a profound investigation needs to be done in the matter by an officer at the level of Deputy Commissioner of Police.

12. In view of the above, the second respondent is directed to transfer the investigation pending on the file of the fourth respondent to the Deputy Commissioner of Police, Anna Nagar Range. The investigation shall be completed and final report shall be filed within a period of two months from the date of receipt of a copy of this order.



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13. The writ petition is disposed of accordingly. No costs.
The connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Director General of Police,
Police Headquarters,
No.1, Radhakrishnan Salai,
Mylapore, Chennai 600 004.
2. The Commissioner of Police,
EVK Sambath Road, Vepery,
Chennai-600 007.
3. The Deputy Commissioner of Police,
Pulianthope Cooks Road, Otteri,
Chennai-600 012.
4. The Inspector of Police,
P-6 Kodungaiyur Police Station,
Chennai-600 118.
5. The Public Prosecutor,
High Court, Madras.

Copy To

The Deputy Commissioner of Police,
Anna Nagar Range, Chennai.

The Section Officer,
Criminal Section, High Court,
Madras.

Writ Petition No.5931 of 2022 and
W.M.P.Nos.6613 & 6619 of 2022

GPL (CO)
PM/06/04/2022