



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.04.2022
CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

WP NO.7549 OF 2011
AND MP NOS.1 AND 2 OF 2011

S.Kasirajan ... Petitioner
Vs.

1.The Secretary
Department of Home
Government of Tamil Nadu
Fort St. George, Madras - 600 009.

2.The Director General of Police
Government of Tamil Nadu
Mylapore, Madras - 600 004.

3.The Director
Central Bureau of Investigation
New Delhi - 110 001.

4.The Additional Director General of Police
C.B.C.I.D.,
M.K.N. Road, St. Thomas Mount,
Madras - 600 016.

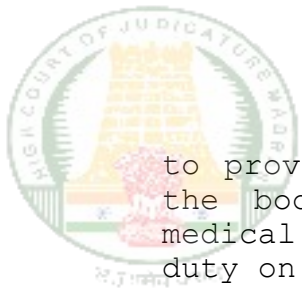
5.The Superintendent of Police
Thanjavur.

6.The Deputy Superintendent of Police
Pattukkottai,
Thanjavur District.

7.The Inspector of Police (Law and Order)
Pattukkottai,
Thanjavur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 and 2 herein (a) to transfer and entrust the case in Crime No.162 of 2010 on the file of the Inspector of Police (Law and Order) Pattukkottai Police Station, Pattukkottai, Thanjavur District to the Director, Central Bureau of Investigation, New Delhi - 110 001, the 3rd respondent herein, for further investigation and to file a final report; (b) to provide adequate police protection to the petitioner; (c)



to provide Rs.10,00,000/- as compensation to the petitioner for the bodily injuries sustained by him including to meet the medical expenses of Rs.3,50,000/- on account of dereliction of duty on the part of the respondents 5 to 7 herein.

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For Petitioner : Mr.V.Karthick
Senior Counsel for Mr.S.Prabhu

For Respondent-1: Ms.S.Senthil Selvi
Government Advocate

For Respondents: Mr.S.Sugendran
2, 5, 6 and 7 Additional Public Prosecutor

For Respondent 3: Mr.K.Srinivasan
Special Public Prosecutor (CBI)

O R D E R

The petitioner has filed this writ petition with the following prayers:

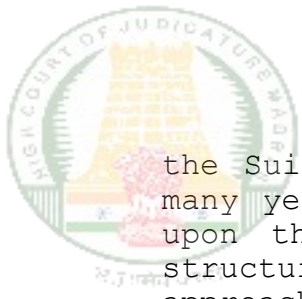
"(a) to transfer and entrust the case in Crime No.162 of 2010 on the file of the Inspector of Police (Law and Order) Pattukkottai Police Station, Pattukkottai, Thanjavur District to the Director, Central Bureau of Investigation, New Delhi - 110 001, the 3rd respondent herein, for further investigation and to file a final report;

(b) to provide adequate police protection to the petitioner;

(c) to provide Rs.10,00,000/- as compensation to the petitioner for the bodily injuries sustained by him including to meet the medical expenses of Rs.3,50,000/- "

2.The petitioner is a practicing Advocate at High Court of Madras. He enrolled himself as an Advocate on 25.10.1989. According to him, one Muthupillai and others filed a Suit in O.S.No.64 of 1969 before the Sub-Court, Thanjavur, against one K.O.K.Vaithinathan Chettiar and others for declaration and recovery of possession of the suit properties. The said Suit was decreed on 27.04.1970 and the appeal preferred by the defendants before the High Court of Madras in A.S.No.613 of 1970 came to be dismissed on 29.04.1976.

3.He would further state that in pursuance of the decree passed in the Suit, an execution petition was filed before the Sub-Court, Pattukkottai for delivery of possession of



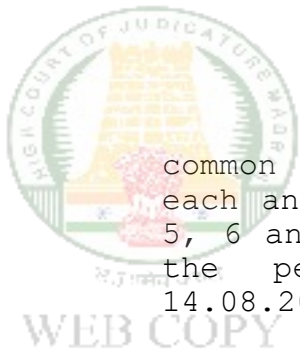
the Suit properties and the execution proceedings prolonged for many years. In the meanwhile, a local politician had encroached upon the Suit properties and at his instigation, temporary structures were put up by his henchmen. Though the politician approached him for negotiation, however, it had not materialized. The petitioner was engaged in this case in the year 1999 to pursue the execution proceedings.

4.It is his further case that sensing threat to his life, he sought for police protection through his representation dated 30.03.2004. When he attended Court on 24.03.2005, the said local politician came along with his henchmen and threatened him in the Court premises itself, for which, he lodged a complaint and the encroachers had also lodged a complaint against him. Thereafter, through Telegrams dated 31.03.2005 and 19.04.2005, he requested police protection at Court premises, when he attended the Court at Pattukottai. Even thereafter, when he attended the Court at Pattukottai, the encroachers instigated the local Advocates to give false complaint against him. He also sent two other politicians to negotiate with him at Chennai and Thanjavur. In the second meeting, it is alleged that they threatened the petitioner.

5.The petitioner would further state that the Madurai Bench of Madras High Court issued direction on 19.03.2008 in CMSA Nos.30 to 34 of 2006 for handing over the vacant possession to the decree holders within a period of 9 months, but it was not complied with. The Execution Petition was posted for delivery of possession on 22.04.2010. The petitioner sent a Telegram to the Superintendent of Police, Thanjavur and Inspector of Police, Pattukottai on 21.04.2010 expressing danger to his life. On 22.04.2010, he was brutally attacked by the hooligans set up by the land grabbers. For the incident, a case in Crime No.162 of 2010 was registered for the offences under Sections 147, 148, 324, 323 and 307 IPC. In the incident, he sustained serious injuries all over his body i.e., 3 cut injuries each on his head and left side leg, 2 cut injuries on his right side leg, bone fracture on his left hand, apart from minor injuries all over his body.

6.The grievance of the petitioner is that though a number of complaints had been given against the land grabbers and their hooligans, no action was taken by the respondent Police. According to him, the case in Crime No.162 of 2010 has not proceeded in a right direction due to the influence of the accused.

7.The 7th respondent, Inspector of Police filed a



common counter on behalf of the respondents, wherein, he denied each and every allegation made by the petitioner. In para 2, 3, 5, 6 and 7, he denied the representations and telegrams sent by the petitioner dated 30.03.2004, 26.03.2005, 03.01.2009, 14.08.2009 and 21.04.2010.

8. In the reply affidavit filed by the petitioner, it is stated that the contents in the counter affidavit are false, hence, the 7th respondent is also liable to be prosecuted for perjury. That apart, he has mentioned about the acknowledgments for receipt of representations sent by him.

9. The learned Senior Counsel appearing for the petitioner vehemently contended that though the complaints were made against the several named persons, the respondent has not taken any action against them and they have not even recorded the statement of the defacto complainant only due to the undue political pressure made by the accused. The learned Senior Counsel further contended that so far there is no proper investigation in this case and it is only an eyewash. Hence, in the interest of justice, the case has to be transferred to the 3rd respondent. In this regard, the decisions of the Hon'ble Supreme Court in 2011 (13) SCC 249, 2011 (13) SCC 337, 2011 (3) SCC 758 and 2011 (5) SCC 79 and the decision of this Court in 1995 LWR 441 and the order of this Court in Crl.O.P.No.24092 of 2004 are relied upon.

10. Per contra, the learned Government Advocate as well as the learned Additional Public Prosecutor representing the respondents would contend that the respondent police have taken sincere efforts to pursue with the investigation. Even assuming that the petitioner is not having confidence with the Investigating Officer, it can be transferred and the Deputy Superintendent of Police concerned may be directed to be supervise and monitor the investigation.

11. Heard the submissions of the learned counsel appearing on either side and perused the materials available on record.

12. From the materials placed before this Court, it is seen that a civil litigation has been going on in pursuance of the decree passed in O.S.No.64 of 1969. It appears that the decree of declaration and recovery of possession passed in the suit has reached its finality. According to the petitioner, he is practicing lawyer in the High Court of Madras and he was engaged in the year 1999 to pursue execution proceedings, which was pending before the Sub-Court, Pattukkottai. The representations and the telegrams mentioned in the affidavit filed in support of the writ petition found enclosed in the booklet along with receipt and acknowledgments. It is an



undisputed fact that the petitioner was brutally attacked on 22.04.2010 and a criminal case was registered in this regard in Crime No.165 of 2010 on the file of the Inspector of Police, Pattukkottai Police Station, Pattukkottai.

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13.It is relevant to point out that in the counter filed by the 7th respondent, he denied each and every allegations including the receipt of the representations and telegrams sent by the petitioner. From the perusal of the typed set, it is evident that the representations made by the petitioner were received by the respondents. It is the specific case of the petitioner that the accused encroacher / land grabbers are local politicians and they are influenced people in the locality. Therefore, the Investigating Officer has not conducted investigation in a proper manner and the main accused were let off and he arrested only 4 accused in this case for name sake. His further grievance is that even his statement was not recorded by the Investigating Officer. On the other hand, it is stated that the investigation is over and final report yet to be filed. The Hon'ble Apex Court and this Court in the decisions referred supra has consistently taken a view that if the accused parties are very influenced persons, the investigation does not proceed with the proper direction or it is biased, the Court has to transfer the investigation from the regular police to special agency.

14.From the material placed before this Court, it is noticed that the 7th respondent has not conducted investigation in a proper manner, there are several lapses in the conduct of investigation, which does not appear to be in a proper course. So many accused named by the petitioner, who attacked him, were left out and even the statement of the defacto complainant is not yet recorded. Although the petitioner sought for transfer of investigation to the Central Bureau of Investigation, this Court may repose the confidence with the State Police and therefore, this Court is inclined to transfer the investigation to the CBCID.

15.This Court, considering the gravity of the situation, in M.P.No.2 of 2011 in the above writ petition, passed the following orders:-

"25.03.2011,

"Heard the learned Public Prosecutor, who has appeared on instructions from this Court.

There will be a direction to the second respondent to give necessary direction to the officers concerned to give adequate police protection to the petitioner, wherever he resides, including when he goes to Pattukkottai for appearing in case."



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19.04.2011

"7. Under such circumstances, the petitioner shall submit a letter to the Commissioner of Police, Chennai immediately for the purpose of enabling him to have the Armed Reserve Force protection for reaching Pattukkottai on this occasion and also in future, as and when the petitioner requires such protection for reaching Pattukkottai.....

12.07.2012

"However, there appears to be a small difficulty in the manner in which the order dated 25.3.2011 has been drafted. Insofar as the protection to be given to the petitioner whenever he goes to Pattukkottai is concerned, the order is very clear. But, insofar as Chennai is concerned, the order dated 25.3.2011 uses the expression "whenever he resides". Therefore, I am of the view that a further direction to the Commissioner of Police, without any ambiguity, will resolve the problem of the petitioner.

In view of the above, there will be a direction to the Commissioner of Police, Chennai, to provide adequate police protection from the Armed Reserve Police, to the petitioner, even at Chennai. The order shall take effect immediately.

The Registry shall communicate the operative portion of this order by wire, to the Commissioner of Police, at the cost of the petitioner. The Office Superintendent, who is present in Court, shall also inform the Commissioner of the order passed today, so that immediate arrangements shall be made."

16. Taking note of the facts of this case, I am of the considered opinion that to meet the ends of justice, the investigation in this case is to be transferred to prosecute the persons involved in the criminal offences without sparing any one. Accordingly, the respondents 1 and 2 are directed to transfer the investigation to the 4th respondent and post sincere, straight forward and efficient officer to conduct investigation and the Superintendent of Police shall monitor the investigation. The investigation shall be completed within a period of 6 months from the date of receipt of a copy of this order.



17. Taking note of these facts, this Court is of the view that the petitioner is entitled to police protection also. As per the earlier orders of this Court aforementioned, the respondents shall provide police protection to the petitioner.

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18. With the above observations and the directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS IX)

//True Copy//

Sub Assistant Registrar

TK

To

1. The Secretary
Department of Home
Government of Tamil Nadu
Fort St. George, Madras - 600 009.
2. The Director General of Police
Government of Tamil Nadu
Mylapore, Madras - 600 004.
3. The Director
Central Bureau of Investigation
New Delhi - 110 001.
4. The Additional Director General of Police
C.B.C.I.D.,
M.K.N. Road, St. Thomas Mount,
Madras - 600 016.
5. The Superintendent of Police
Thanjavur.
6. The Deputy Superintendent of Police
Pattukkottai,
Thanjavur District.
7. The Inspector of Police (Law and Order)
Pattukkottai,
Thanjavur District.

+3 ccs to Mr. S. Prabhu, Advocate Sr. NO. 25122

WP NO. 7549 OF 2011

NR (CO)

A. SK (31/05/2022)