



WEB COPY



W.P.No.18586 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

CORAM:

THE HON'BLE **Ms.JUSTICE R.N.MANJULA**

W.P.No.18586 of 2021
and W.M.P. Nos.6589 of 2022 & 19823 of 2021

P.Ganesh Kumar

... Petitioner

Vs.

1. The Additional Chief Secretary,
Department of Labour and Employment,
Secretariat, Chennai – 600 009.
2. Joint Secretary,
Department of Labour and Employment,
Secretariat,
Chennai – 600 009.
3. The Benami Property (Prohibition Office),
Income Tax Department,
No.46, Uthamar Gandhi Road,
Nungambakkam Main Road,
Nabard Building,
Chennai – 600 034.
4. The Deputy Commissioner, (Benami Prohibition),
No.46, Uthamar Gandhi Road,
Nungambakkam Main Road,
Nabard Building,
Chennai – 600 034.



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5. The Commissioner of Police,
Greater Chennai,
Chennai – 600 008.

6. The Superintendent of Police,
Vigilance and Anti-Corruption,
Alandur,
Chennai – 600 016.

7. The Inspector,
V-1, Villivalkam Police Station,
Villivalakkam.

8. A.Valarmathi

9. Krishnamurthy

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of mandamus forbearing the respondent 6 to 9 from compelling the petitioner not to speak against the 8th respondent during CCB Crime No.6/AC2020/CC-11.

For Petitioner	: Dr.G.Krishnamurthy
For Respondents 1-7	: Mr.A.Damodaran, Addl. Public Prosecutor
8	: Mr. A.Mohan
9	: No appearance

ORDER

This Writ Petition has been filed for the issuance of writ of mandamus forbearing the respondent 6 to 9 from compelling the petitioner not to speak against the 8th respondent during CCB Crime No.6/AC2020/CC-11.



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2. The petitioner is said to be running a consultancy firm under the name and style of 'G.K.Consultancy'. In the year 2018, the petitioner and the 8th respondent became friends and the petitioner was helping the 8th respondent in collecting bribe on behalf of the 8th respondent. The 8th respondent is working as an Assistant Commissioner of Labour (Social Security Scheme Officer, Tiruvannamalai). The 8th respondent used to introduce the petitioner as her personal assistant to the representatives of the establishment in order to enable her to collect bribes from them and for which he was being paid Rs.500 to Rs.1000/- per day. The 8th respondent purchased lands, car, etc., by using the bribe money. In the year 2020, the 6th respondent gave a complaint and on which a case has been registered in Cr. No.6/AC2020/CC-11 under Section 7 of the Prevention of Corruption Act, on 05.06.2020.

2.1. During the course of enquiry the petitioner was also enquired by the 2nd respondent and he has given a clear statement against the 8th respondent by disclosing all her illegal activities. However, the respondents 5 and 7 were compelling the petitioner not to name the persons involved in the crime. In the



due course, the 8th respondent has also given a false case against the 7th respondent. The 7th respondent, with the connivance of the respondents 8 & 9, came to the house of the petitioner, abducted and coerced him to get into the car belonging to the 8th respondent and with four constables. Further, the petitioner was taken to Villivakam Police Station wherein he was detained up to 6.00 p.m. and he was forced to hand over 9 sovereign of gold jewels in order to satisfy the complaint of 8th respondent. Hence he has filed this petition seeking certain directions.

3. The learned counsel for the petitioner submitted that the petitioner is a whistle blower and he should be given with due protection.

4. The allegation made by the petitioner himself would show that he is also involved in the alleged demands for bribe made by the 8th respondent. The complaint was not given by the petitioner but it is a trap case in which the 8th respondent herself is an accused. It is seen from the FIR that the complainant in that case is one Bharathan. So the petitioner has given misleading facts as if he had set the law in motion by disclosing illegal demands made by the 8th



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respondent. The records would show that the 8th respondent herself had given a complaint against the petitioner and on which an FIR has been registered in Cr. No.340 of 2022 on the file of Villivakkam Police. (7th respondent).

5. The petitioner who alleges himself as partner in a crime committed by the 8th respondent cannot seek police protection as if he is an innocent. If the investigation reveals that the petitioner is also involved in the vigilance case registered by the 6th respondent then he has to abide by the law. If the petitioner has got grievance that the 8th respondent has given a case as a counterblast against the first petitioner for his open statements made against the 8th respondent, it is up to him to take that stand as his defense in the case registered against him in Cr. 340 of 2020. However, the learned counsel for the petitioner submitted that the said case has been closed as “Mistake of Facts”. However, the learned Additional Public Prosecutor submitted that the said case is pending for investigation and it is not closed as mistake of facts.

6. When a case has been registered against the petitioner, he has to defend



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the same in the lines now taken by him in the case proceedings and he cannot file any writ petition on the said allegations. Since the petitioner's averments themselves would reveal his active participation in the alleged illegal activities of the 8th respondent, he cannot claim himself as a whistle blower or protector of law and seek any relief.

7. It is alleged by the petitioner that he was being influenced by the respondent 6 to 9 and they have been compelling him not to speak against the 8th respondent during investigation. The petitioner has already given his statement to the third respondent. If the petitioner is at threat, it may not be possible for him to give any statement of that kind before the third respondent.

8. Since the petitioner has to cooperate for the investigation that has to be made in both cases, he cannot mislead the Court by projecting as though he had only set the law in motion as against the 8th respondent. If the petitioner wishes to make any statement before the police, he is at liberty to make any kind of statement. There is no material available on record to show that the petitioner was under threat or compulsion. Hence the petitioner need not apprehend that



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the investigation agency is acting in support of the 8th respondent.

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9. In view of the above stated reasons, I find no reasons to give any directions of any kind as sought by the petitioner. Accordingly, the Writ Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No

Speaking / Non Speaking Order

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3. The Benami Property (Prohibition Office),
Income Tax Department,
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