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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESEVALU

W.A.Nos.3087, 3230 of 2019 & 169 of 2020

W.A.No.3087 of 2019

R.Alagappan

..Appellant/Third Party in W.P

Vs.

1. S.Ramesh

..1st Respondent/W.P

2. The Chairman
Police Complaints Authority for
Puducherry Union Territory
Chief Secretariat,
Puducherry.

3. The Director General of Police
Police Head Quarters
Puducherry,
Puducherry Union Territory.

4. The Inspector of Police
Policing of Police
SSP C & I Complex
Puducherry.

...Respondents 2 to 4/Respondents

5. The State of Tamil Nadu
rep. by its Home Secretary
St. George Fort,
Chennai.

6. The Director General of Police
DGP Office,
Mylapore, Chennai.

..Respondents

[RR 5 & 6 suo motu impleaded
vide order dated 16.09.2019]



W.A.No.3230 of 2019

S.Ramesh

..Appellant/Petitioner

Vs.

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1. The Chairman
Police Complaints Authority for
Puducherry Union Territory
Chief Secretariat,
Puducherry.

2. The Director General of Police
Police Head Quarters
Puducherry
Puducherry Union Territory.

3. The Inspector of Police
Policing of Police
SSP C & I Complex
Puducherry.

...Respondents/Respondents

4. Union of India
rep. by the Chief Secretary
Government of Union Territory of Puducherry
Puducherry.

5. Additional Secretary Home / Secretary-cum-Convener
Police Complaints Authority
Home Department
Government of Union Territory of Puducherry
Puducherry.

...Respondents/Proposal Parties

[Cause title accepted vide order dated
09.09.2019 in CMP No.19328 of 2019]

W.A.No.169 of 2020

The Chairman
Police Complaint Authority for
Puducherry Union Territory
Chief Secretariat, Puducherry.

..Appellant/1st Respondent

Vs.

1. S.Ramesh

2. The Director General of Police
Police Headquarters
Puducherry Union Territory
Puducherry.



3. The Inspector of Police
Policing of Police
SSP & C & I Complex
Puducherry.

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4. Union of India
rep. by Chief Secretary
Government of Puducherry. ..Respondents/Respondets2&3
[R4 impleaded vide order dated 18.03.2020
made in CMP No.6479 of 2020]

Common Prayer: Appeals filed under Clause 15 of Letters Patent
against the order dated 30.07.2019 made in W.P.No.21587 of 2019.

Prayer in W.P.No.21587 of 2019: Writ petition filed under
Article 226 of the Constitution of India, for issuance of a writ
of Mandamus, directing the 2nd respondent to comply with orders
of the police complaints Authority dated 22.05.2019 in Complaint
No.17/PCA/2019 and take action on the petitioner complaint dated
10.11.2018 submitted before Inspector of police, Grand Bazaar
Police Station, Puducherry, now transferred to the file of the
Inspector of Police, Policing of Police, Puducherry within a
time frame.

For the Appellants : No appearance
(WA No.3087/19 & 3230/19)

Mrs.N.Mala
Govt. Pleader (Puducherry)



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For the Respondents : W.A.No.3087 of 2019
Mr.V.Balamurugane
Public Prosecutor (Puducherry)
for respondents 2 to 4

Mr.P.Muthukumar
State Government Pleader
for respondent 5

Mr.N.Damodharan
Addl. Public Prosecutor
for respondent 6

W.A.No.3230 of 2019
Mrs.N.Mala
Govt. Pleader (Puducherry)
for respondents 1, 4 & 5

Mr.V.Balamurugane
Addl. Public Prosecutor
for respondents 2 & 3

W.A.No.169 of 2020
Mr.S.Ramesh - Respondent-1
Party-in-Person

Mr.V.Balamurugane
Public Prosecutor (Puducherry)
for respondents 2 & 3

Mrs.N.Mala
Govt. Pleader (Puducherry)
for respondent-4

JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

These writ appeals have been filed challenging the order dated 30.07.2019 made in the writ petition, which was disposed of with certain observations and directions.

2.These appeals have been preferred challenging the order made in the writ petition filed by the appellant in W.A.No.3230 of 2019, wherein a direction was sought for the implementation of the order passed by the Police Complaints Authority, Puducherry on 22.05.2019. The prayer made therein was not accepted by the Court. Rather, referring to the jurisdiction conferred on the Police Complaints Authority, appropriate observations in reference to its jurisdiction, pursuant to the judgment of the Apex Court in the case of Prakash Singh and



3. The appellant in W.A.No.3230 of 2019, appearing in-person submits that the writ petition seeking a direction for compliance of the order passed by the Police Complaints Authority ought to have been allowed. It is taking into account the fact that the authority has considered the issue threadbare, while issuing an order for a fresh investigation through an officer other than the one who dealt with the investigation and directing a fresh investigation. It is by appreciating the material produced before it in reference to the case pertaining to land grabbing.

4. The appellant-in-person further submits that the learned Single Judge has not issued directions as sought in the writ petition. Rather, made a comment on the jurisdiction to be exercised by the Police Complaints Authority, without taking note of the letter dated 23.03.2010 issued by the Government of India, pursuant to the judgment of the Apex Court in the case of Prakash Singh supra, which provides for the power and function of the Police Complaints Authority. Accordingly, he submits that the direction of the Police Complaints Authority to make a fresh investigation through the officer other than the one who has already investigated the case is appropriate, in the facts and circumstances of the case and that when a direction to lodge an FIR can also be given by the Police Complaints Authority, there was no reason for the learned Single Judge to deny for a direction for the implementation of the order passed by the Police Complaints Authority.

5. Learned counsel appearing for the Police Complaints Authority, supporting the arguments of the appellant-in-person, submits that the direction given by the Police Complaints Authority is appropriate in the facts and circumstances of the case and that the learned Single Judge could have given direction as sought in the writ petition. As far as the Union Territory of Puducherry and the Police Complaints Authority are concerned, they are not challenging the outcome of the writ petition, but only the observations made by the learned Single Judge in paragraphs 15 and 16 of the order. Thus, a prayer is made to delete the observations made in paragraphs 15 and 16 of the order.

6. We have considered the submissions made on behalf of both sides.

7.The writ petition was filed by the petitioner-appellant in-person seeking a direction for compliance of the order passed by the Police Complaints Authority on 22.05.2019 in the



following terms:

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"10.Hence, in these circumstances, we direct the Director General of Police, Pondicherry, to order for a fresh investigation by deputing an Inspector of Police who has not already dealt with this matter and appropriately take a decision in this matter as per law and, that too, adhering to the well-known case of Lalitha Kumari Vs. Government of Uttar Pradesh and Others (2013 (6) CTC 353) of the Hon'ble Apex Court in the light of the documents and report compliance within a period of one month from the date of receipt of the copy of this Order."

8.The direction sought by the writ petitioner was not accepted by the learned Single Judge, rather it was found to be inappropriate, considering the jurisdiction vested with the Police Complaints Authority, pursuant to the judgment in the case of Prakash Singh supra. The learned Single Judge made a reference to sub-para (6) of the judgment in Prakash Singh case setting out the jurisdiction conferred on the Police Complaints Authority, which reads as under:

"6.There shall be a Police Complaints Authority at the district level to look into complaints against police officers of and up to the rank of Deputy Superintendent of Police. Similarly, there should be another Police Complaints Authority at the State level to look into complaints against officers of the rank of Superintendent of Police and above. The district level Authority may be headed by a retired District Judge while the State level Authority may be headed by a retired Judge of the High Court/Supreme Court. The head of the State level Complaints Authority shall be chosen by the State Government out of a panel of names proposed by the Chief Justice; the head of the district level Complaints Authority may also be chosen out of a panel of names proposed by the Chief Justice or a Judge of the High Court nominated by him. These Authorities may be assisted by three to five members depending upon the volume of complaints in different States/districts, and they shall be selected by the State Government from a panel prepared by the State Human Rights Commission/Lok Ayukta/State Public Service Commission. The panel may include members from amongst retired civil servants, police officers or officers from any



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other department, or from the civil society. They would work whole time for the Authority and would have to be suitably remunerated for the services rendered by them. The Authority may also need the services of regular staff to conduct field inquiries. For this purpose, they may utilize the services of retired investigators from the CID, Intelligence, Vigilance or any other organization. The State level Complaints Authority would take cognizance of only allegations of serious misconduct by the police personnel, which would include incidents involving death, grievous hurt or rape in police custody. The district level Complaints Authority would, apart from above cases, may also inquire into allegations of extortion, land/house grabbing or any incident involving serious abuse of authority. The recommendations of the Complaints Authority, both at the district and State levels, for any action, departmental or criminal, against a delinquent police officer shall be binding on the concerned authority".

9. The paragraph quoted above clearly demonstrates the jurisdiction conferred on the Police Complaints Authority. If the background of the judgment in the case of Prakash Singh supra is taken into consideration, it was in reference to the serious complaints against the police officers involving themselves in the commission of crime like land grabbing and many other related issues, apart from the cases of custodial death. The Apex Court, thus, gave a direction to constitute the Police Complaints Authority to examine the complaints against the police officer for appropriate directions. It can issue an order to take up the matter against the delinquent police officer not only departmentally, but also for lodging FIR. Such lodging of FIR on the direction of the Police Complaints Authority is wholly in regard to the act of the police officer only if he has involved in the crime either in the form of custodial death or other crime. The power and authority of the Police Complaints Authority is limited in reference to the conduct of the police officer and not for the issuance of a general direction.

10. The learned Single Judge was thus justified in holding that the Police Complaints Authority has exceeded its jurisdiction in passing the order sought to be complied with. In paragraphs 15 and 16 of the order, learned Single Judge had rightly observed about the jurisdiction of the Police Complaints Authority which cannot be akin to the authority of the Court exercising its power under Code of Criminal Procedure. The



learned Single Judge has minutely examined even the consequences of passing such orders by the Police Complaints Authority beyond the jurisdiction, which may give rise to conflicting direction by the competent Court under Cr.P.C. and by the Police Complaints Authority.

11. In the light of the above, learned counsel appearing for the Police Complaints Authority could realise the reason for making such observations in paragraphs 15 and 16, which is to avoid unnecessary litigation in the form of a writ petition seeking a direction for compliance of the order passed by the Police Complaints Authority. Rather, the Police Complaints Authority is required to manage the affairs within the four corners of the jurisdiction given to it pursuant to the judgment in the case of Prakash Singh supra.

12. In view of the above, we do not find any error or illegality in the order challenged before us nor the observations made regarding the exercise of jurisdiction by the Police Complaints Authority. Thus, while dismissing the appeals, we confirm the direction issued by the learned Single Judge regarding the jurisdiction of Police Complaints Authority that they should not take up the issue beyond the jurisdiction pursuant to the judgment of the Supreme Court in the case of Prakash Singh supra and the letter dated 23.03.2010 issued by the Government of India. The Police Complaints Authority would be expected to exercise its jurisdiction only within the four corners of the direction issued by the Supreme Court in the case of Prakash Singh supra and in terms of the letter dated 23.03.2010 issued by the Government of India. Accordingly, these writ appeals are dismissed with the aforesaid observations. There will be no order as to costs. Consequently, CMP Nos.1779 of 2021, 20442 of 2019, 12466 and 2416 of 2020 are also dismissed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

kpl/drm

To:

1. The Chairman
Police Complaints Authority for
Puducherry Union Territory
Chief Secretariat, Puducherry.



2. The Director General of Police
Police Head Quarters
Puducherry, Puducherry Union Territory.
3. The Inspector of Police
Policing of Police
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4. The Home Secretary
State of Tamil Nadu
St. George Fort
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Police Complaints Authority
Home Department
Government of Union Territory of Puducherry
Puducherry.
7. The Chief Secretary
Government of Union Territory of Puducherry
Puducherry.

+2cc to Mr.S.Ramesh, Party in Person, S.R.No.6727

+1cc to the Government Pleader, S.R.No.6773, 6774, 6772

W.A.Nos.3087, 3230 of 2019 &169 of 2020

SSN(CO)
RGA(10/02/2022)