



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.NO.27636 OF 2021

AND

W.M.P.NOS.29171 & 29172 OF 2021

G.Ellammal

... Petitioner

Versus

1. The Additional Chief Secretary to Government,
Home Department,
Secretariat,
Chennai - 600 009.
2. The Director General of Police,
Mylapore,
Chennai - 600 004.
3. The District Collector,
Kancheepuram District,
Kancheepuram.
4. The Superintendent of Police,
Kancheepuram District.
5. The Superintendent of Police,
Chengalpet District.
6. Velladurai

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from initiating any fake encounter or executing my husband namely Guna @ N.Gunasekaran @ Padappai Guna against the principles set out by this Court in human rights in order to safeguard the life guaranteed under Article 21 of the Constitution of India, considering my representation dated 16.12.2021.



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For Petitioner : Mr.S.Prabakaran,
Senior Counsel for
Mr.M.A.Gouthaman

For R1 to R5 : Mr.E.Raj Thilak
Additional Public Prosecutor

O R D E R

This Writ Petition is filed to forbear the respondents from initiating any fake encounter or executing the petitioner's husband namely Guna @ N.Gunasekaran @ Padappai Guna against the principles set out by this Court in human rights in order to safeguard the life guaranteed under Article 21 of the Constitution of India, considering the petitioner's representation dated 16.12.2021.

2.The grievance of the petitioner is that the respondent police are planning to execute an encounter on the petitioner's husband and the petitioner's husband escaped from the custodial interrogation. The petitioner's husband fears, he might be taken in custody, no immediate case is pending against him, for taking him in custody. Further he submits that the petitioner's husband is running a company under the name and style of GD Guna Enterprises, in the field of export and collection of Industrial Scraps from the factories in and around Sriperumbudur.

3.He further submits that the petitioner's husband falsely implicated in certain case pending by the Kancheepuram Prohibition Wing, further murder cases are pending from the year 2009, 2014 and 2016, a History Sheet is pending against the petitioner's husband. This being, petitioners husband is searched by the police authorities for the offences not connected. Repeatedly there is a life threat to the petitioner's husband, though he is not involved in any crime. The petitioner's husband wanted to reform and to lead a peaceful life. The respondent police at odd hours knocking the doors of the petitioner's house, searching for her husband calling him for enquiry. The petitioner's husband is not involved in any crime, he shall face the cases in the Court of law. For the reason unknown the petitioner's husband is branded as history sheeter and is name is renewed periodically.

4.The petitioner as well as the petitioner's husband have apprehension that the respondent police, might attack the petitioner's husband brutally and remand him to judicial custody in some cases, which he is not involved, in violation of Human rights and the fundamental rights guaranteed under Article 14



and 21 (b), (e), (g), (h), (AI), (AO), (AR) of the Constitution of India. The petitioner's husband contested election for Madura Mangalam Village Panchayat, the petitioner also contested, succeeded in the ward election. Thus they serve the public and they work for the well being of the common people. On the contrary, the respondent police are branding the petitioner's husband as a rowdy element. The petitioner as an independent candidate, was successful in the Panchayat Election, which is not to the liking of the political parties. Hence the political parties are interested in elimination of the petitioner's husband.

5.He further submitted that the respondent police are not following the guidelines issued by the High Court as well as the Hon'ble Supreme Court in safeguarding the fundamental right of the accused. The petitioner's husband is now implicated in Crime No.622 of 2021, by the Sunguvarchatram Police, in Crime No.1138 of 2021 by the PEW Kancheepuram Police, and in Crime No.1175 of 2021 by the Sriperunbudur Police, giving reason that the petitioner's husband is needed for investigation in the above cases the respondent police from the said police stations, enter the petitioner's house and threaten the petitioner and others.

6.The petitioner's husband is co-operating with the investigation and he is a law abiding citizen. The petitioner's husband is ready to surrender and faces all the cases in Court of Law. The petitioner's apprehension is that her husband would be eliminated in un-lawful manner. Hence she filed the above petition.

7.The learned Additional Public Prosecutor filed his counter listing the history of the petitioner's husband involvement in Criminal Cases, wherein 44 cases listed. In nine cases the petitioner's husband got acquitted, 15 cases pending trial, 11 cases under investigation, three cases referred, four cases not taken on file and two cases disposed of. Thus the petitioner's husband from the year 1996 is regularly involving himself in one case or other. He is very active, mentioning of his name, fear runs in the spine of public. He is a menace to the society. The first case against the petitioner itself filed under Section 302 IPC, though he was acquitted, but gave him identity. Thereafter constantly involved in various offences. Most of the cases pending against the petitioner's husband are grave in nature. Non Bailable Warrant is pending in one of the case in Crime No.622 of 2021. He further submits that the petitioner's husband past history would show the progress of the petitioner's husband graduating, mastering and finally doctoring the criminal fiefdom.



8.He further submits that the petitioner's husband was earlier granted bail in Crime No.622 of 2021. The petitioner's husband is ingenious in finding ground in escape from the crime committed, one such case is Crime No.622 of 2021, in which he obtained anticipatory bail before this Court. Thereafter the petitioner's husband failed to execute sureties, later anticipatory bail cancelled. At that time, the petitioner's husband took a stand stating that he was affected with COVID virus and for that reason he could not execute sureties. The said Court directed the concerned police to verify the genuineness of the certificate produced and it was found as it is a forged report fabricated by the petitioner's husband. Subsequently the petitioner was arrested and he was produced for medical check up. At that time, the Doctors confirmed the falsity in petitioner's husband claim. The medical report proved that the petitioner's husband was not affected with COVID virus and therefore, this Court cancelled the bail order and issued Non-Bailable Warrant against the petitioner's husband.

9.He further submitted that the respondent police with great difficulty taking steps to secure the petitioner's husband. The petitioner's husband by filing one petition or other stalling his arrest. The petitioner's husband though claims to surrender, so far he has not surrendered, even during the pendency of the above writ petition a separate case in Crime No.786 of 2021 was registered against the petitioner's husband by the C2 Sunguvarchathiram Police for offence under Sections 195(A), 141, 342, 447, 506(i) and 307 IPC, one of the co-accused Venkatesan, who was arrested in the said case, had confirmed the role played by the petitioner's husband. Further submitted that for production of fabricated forged COVID 19 Certificate, before the Judicial Magistrate Court, Sriperumbudur, a separate case registered against the petitioner's husband in Crime No.1389 of 2021 by the Sriperumbudur Police for offence under Sections 197, 420, 464, 465, 468 and 471 IPC.

10.He further submitted that the defacto complainant in Crime NO.622 of 2021 filed a compromise quash application in CrI.O.P.No.16305 of 2021, which is pending before this Court. During the pendency of the above said petition, this Court directed the respondent police to verify the genuineness of the compromise. The respondent police found that the compromise was a forced one and not volunteer and with friendly term. The respondent police are taking lawful action and not by any other manner as alleged by the petitioner. The petitioner due to his experience and knowledge gained in all these years in Criminal field with able legal assistance has filed this petition. Hence, he prayed for dismissal of this writ petition.



11. The learned counsel appearing for the petitioner submits that after filing of the writ petition two more cases filed by the respondent police. The respondent police are particularly to implicate the petitioner's husband in one case or other periodically. She further submits that the petitioner herself was taken to the police station, illegally detained only after media reported the ill-legal detention, later petitioner was set free. It is reported that the petitioner's husband has 44 cases, in some of the cases, the petitioner's husband got acquitted, some cases referred, some cases are pending trial and some yet to be taken on file. The respondent police for obvious reasons are keeping pending cases against the petitioner's husband.

12. Considering the submissions and on perusal of the materials, this Court finds that the respondent police are taking lawful action against the petitioner's husband. The petitioner's husband involvement in all several criminal cases are not disputed. Some cases are serious in nature, he is also a history sheeter, the petitioner's husband involvement in criminal cases continues from 1996, he has shown no remorse but continues his activities, as could be seen from the cases registered against him, his path of prominence is well known. Further the petitioner's husband has serious of legal brains. There is no material to show, any action as averred by the petitioner ever existed. The petitioner specifying, sixth respondent as person of her concern and fear seems to be uncalled for without any material and substance. In view of the same, this Writ Petition is to be dismissed.

13. Accordingly, this Criminal Original Petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions stand closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Chief Secretary to Government,
Home Department,
Secretariat, Chennai - 600 009.



2. The Director General of Police,
Mylapore,
Chennai - 600 004.

3. The District Collector,
Kancheepuram District,
Kancheepuram.

4. The Superintendent of Police,
Kancheepuram District.

5. The Superintendent of Police,
Chengalpet District.

6. The Public Prosecutor,
High Court, Madras.

W.P.No.27636 of 2021

PCH(CO)
RLP(09/02/2022)