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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2022

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

W.P.NO.4996 OF 2017

C.Balamurugan

...Petitioner

Vs

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Department of Home,
Fort St.George,
Chennai - 600 009.

2.The Director General of Police,
D.G.P. Office,
Kamarajar Salai,
Chennai - 600 004.

3.The Superintendent of Police,
Cuddalore District,
Cuddalore.

4.Mr.N.Sathasivam

...Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing First to Third Respondents to initiate criminal proceedings and departmental proceedings against the Fourth Respondent, the Sub Inspector of Police, Aladi Police Station for his criminal activities and unlawful exercise of power.

For Petitioner : Mr.J.Antony Jesus

For Respondents : Mr.Gokulakrishnan
Additional Government Pleader

O R D E R

Heard Mr. J.Antony Jesus, Learned Counsel for the Petitioner and Mr. Gokulakrishnan, Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.



2. The Writ Petition has been filed for directing the First to Third Respondents to initiate criminal proceedings and departmental proceedings against the Fourth Respondent, viz., Sub-Inspector of Police, Aladi Police Station for his criminal activities and unlawful exercise of power.

3. In response to the allegations levelled by the Petitioner against the Fourth Respondent in the affidavit filed in support of the Writ Petition, the First to Third Respondents have filed Counter-Affidavit in which it has been stated as follows:-

"2. Regarding the averments made in Para No.4 and 5 of the affidavit it is submitted that it is not correct to state that the Petitioner and his party workers, are organizing several agitations for solving the problems faced by common people in the locality such as drinking water etc., since there are other local bodies and infra structures of people movements to take care and welfare of the local people and to redress their grievances if any, with the help of police and other governmental functionaries. Regarding the nature of one TASMACH shop situated in their village, necessary steps were taken upon the petition sent by the present Petitioner which was referred to the office of Tahsildar, Vridachalam., to take necessary action regarding his Petition. But the revenue authority has decided that the location of said TASMACH shop was not nearer to the Government Higher Secondary school and more than 800 meters away from the said school, and it was not the subject of any hindrance to the local residents of the said village, and hence necessary action in this regard has been deferred with.

3. Regarding the averments made in Para No.6 of the affidavit it is submitted that the allegations set forth against the Fourth Respondent are totally false and concocted ones as if any lapses found on his part, such matters would be taken serious note of his superiors and necessary action would be taken immediately against him for his willful conduct of making unlawful demands etc.,

4. Regarding the averments made in Para No.7 and 8 of the affidavit it is submitted that it is firmly revealed on enquiry, that on 11.11.2016, the present Petitioner along with other twenty members were sitting under the tree in the entrance of the said temple in morning hours and at the time of routine



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village bandobust, the Fourth Respondent and another police man approached them and advised them to clear way for the devotees to enter into the said temple since that was the time for offering prayers by public in the temple. Hence on the complaint given by the Petitioner in this regard, no further action was taken by the concerned authorities as it was proved to be false one.

5. Regarding the averments made in Para No.9 to 12 of the affidavit it is submitted that on 31.12.2016 upon receipt of an OP information from Vridhachalam Government Hospital, the Special Sub Inspector of Police attached to Aladi P.S. Proceeded to the said hospital, and found the Petitioner who was under treatment as inpatient, and on enquiry he has given a statement of assault made on him by his opponents namely Chinnadurai and others on instigation by the Fourth Respondent/Sub-Inspector of Police. Hence based upon his statement , a case was registered in Cr.No. 203/2016 of Aladi P.S. u/s 294[b], 341, 324, 355 and 506[iii] IPC., and necessary investigation was taken by the Inspector of Police, Mangalampetai Circle.

6. I state that during the course of investigation, said Inspector of Police has examined twelve other witnesses including the De facto complainant/Petitioner and other co-villagers who had seen the occurrence and recorded their statements u/s161 of Cr.P.C., None of the witnesses has spoken about the instigation of fourth Respondent as alleged by the Petitioner in his statement. Hence the Investigating Officer/Inspector of Police, has concluded the investigation and filed the final report against only above said two accused persons u/s 341, 294[b], 324, 355 and 506[iii] to be taken on file. After the above said occurrence, there was another incident on the same day of 31.12.2016 at about 13.30 hourse, in the same village, while the complainant Chinnadurai along with his wife Maniammal was beaten with iron pipes by the present Petitioner and others after scolded them in vulgar words. Then the injured Chinnadurai was taken to Government Hospital, Vridhachalam wherein he was enquired by the SSI of Police, Aladi P.S., he gave a statement and on the basis, a case was registered in Cr. No. 202/2016 u/s 294(b), 324, 323, 506(ii) IPC., and the Inspector of Police, Mangalampettai Circle has taken up investigation in this case. During the court of investigation by examining 13 witnesses including the



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complainant and other occurrence witnesses. Therefore, after completion of investigation, a final report was filed u/s 294(b), 324, 323 and 506(ii) IPC., against the Petitioner Balamurugan and his wife, which is yet to be taken on file.

7. Regarding the averments made in Para No. 13 of the affidavit it is submitted that it is totally false to contend that the complaint given by the Petitioner on 30.12.2016 was taken for enquiry in Na. Ka. No. H1/034682/2084/2016 and No. 705/SDO-m/2016, and after proper enquiry made on 01.01.2017 by the Deputy Superintendent of Police, Vridhachalam Sub Division, it was gathered from the local villagers that all those allegations are false and it was also vindicated that those vehicles used to carry mines and minerals such as sand would carry on their business only after obtaining prior permit and license from the authorities concerned and hence there is no cause for any mal practices by police as alleged.

8. I further state that as far as the complaint of Petitioner dated 04.01.2017 is concerned, it was taken on file in Na. Ka. No. H4/000085/05/2017 and No. 04/SDO-m/2017 and No. 02/X2/CIO/ 2017, and was enquired by the Inspector of Police, Mangalampettai Circle, and was enquired on 25.01.2017 whereupon it was revealed that the disputed TASMACH shop was situated 800 meters away from Government High School and there was no need for the students to cross over the said shop in any manner and that it was also informed by the students that the said shop did not cause any disturbance to them to prevent such kind of political meetings regularly conducted by the Petitioner and his political party. Further, it was disclosed that there are frequent quarrels between the Petitioner's party cadres on the other hand with the villagers representing the Panchayath President, and hence on both sides many cases had been registered in Aladi Police Station. Therefore, it was concluded by the said Enquiry Officer/Inspector of Police that the Petitioner who belonged to a political party, and due to the enmity arose against the villagers, said Petitioner was used to send frivolous Petitions/complaints against his opposite parties.

9. Hence, I state that all those complaints sent by the Petitioner to the Third Respondent have been properly taken into consideration by him and were subjected to necessary enquiries being conducted by



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the superior officers ranked above the Fourth Respondent and after the full fledged enquiries, some definite conclusions have been arrived about the ground reality prevailing in the village. Therefore, it is totally incorrect to state that the Third Respondent has not taken any steps over the complaints sent by the Petitioner previously on two occasions nor there was any inaction on the part of the superior officers in this regard. Since there was no cause for any inaction on the part of those superior officers, the question of any arbitrariness or illegality or failure would not arise in terms of exercising their vested jurisdiction."

4. In view of the said action taken by the concerned authorities against the Fourth Respondent, nothing remains for further consideration in the Writ Petition, but if the Petitioner still has any other grievance to be redressed, he is not precluded from working out his rights before the proper forum in the manner recognized by law.

In fine, the Writ Petition is disposed with the aforesaid observations. No costs.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

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To

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

2.The Director General of Police,
D.G.P. Office, Kamarajar Salai,
Chennai - 600 004.

3.The Superintendent of Police,
Cuddalore District, Cuddalore.

+1cc to M/s.G.Sumitra, Advocate Sr.No.32231
+1cc to the Government Pleader Sr.No.32545

W.P.No.4996 of 2017

PL(CO)
RVM(16/06/2022)