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W.P.No.32661 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.32661 of 2018

K.Selvaraj

...Petitioner

Vs.

The Director General of Police,
Director General of Police Office,
Kamarajar Salai,
Chennai – 600 004

..Respondent

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, direct to consider the petitioner representation on 28.10.2016 to take action against the Pattukkotai Assistant Superintendent of Police Mr. Aravind Menon.

For Petitioner : Mr.M.Madhu Prakash

For Respondent : Mr.S.Rajesh
Government Advocate

ORDER

The relief sought for in the present writ petition is for a direction to direct the respondent to consider the representation submitted by the petitioner on 28.10.2016 to take action against the Pattukkotai Assistant Superintendent of Police, Mr. Aravind Menon.



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2. The petitioner is a practicing lawyer and started his practice in Pattukottai, Thanjavur and currently practicing in High Court of Madras. When he was practising at Pattukottai, he went to Sethubava Sathiram Police Station, Pattukottai Taluk, after completing his work. He parked his Car bearing Registration No.TN 07 AH 3115, Scorpio make, inside the Maruthi Fuels Petrol Pump. There was a huge crowd standing in front of the Sethubava Sathiram Police Station, and all of a sudden, the police force and the Pattukkottai Assistant Superintendent of Police Mr.Aravind Menon was clearing the crowd. At that point of time, the Car belonging to the writ petitioner was damaged. The petitioner states that the said police official purposely caused damage to his Car and in this regard, he submitted a complaint to the Director General of Police and there was no action. Thus, the writ petitioner is constrained to move the present writ petition.

3. The learned Government Advocate appearing on behalf of the respondent based on the counter affidavit filed, states that an enquiry was conducted and the Police found that there was no such occurrence happened, warranting any further action on the representation.



4. In this regard, paragraph 5 of the counter affidavit reads as under:

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“5. The petition sent by the petitioner to the DGP was forwarded to the Inspector of Police through proper channel vide C.No.C3/2680/IGP/CZ/2017 dated 27.02.2017 of the Office of the Inspector General of Police, Central Zone, Trichy and was enquired by the Inspector of Police, Sethubavachatram Police Station, Thanjavur District. The enquiry reveals that on the date of alleged occurrence, the Police Officers were searching the persons involved in the Crime Number 307/2016 U/s 147, 148, 302 IPC of Pattukottai Town Police station. The enquiry of the Inspector further reveals that on 05.07.2016, based on the secret information, search was conducted at ECR to secure the accused concerned in above said Murder Case, hence the Police Officers were under pressure to clear the traffic congestion in the said place and asked the crowd to disperse. The entire occurrence was witnessed by the persons standing in the said petrol bunk and the manager of the petrol bunk namely Sivasubramanian and the staff of the petrol bunk namely Mathiyalagan and Arunkumar. They depose before the enquiry officer that Police Officers have asked the parked vehicles in the petrol bunk and nearby areas and the crowd to disperse from there and there was no violent behavior on the part of Police and no damage was caused to any vehicle. The enquiry report further reveals that no such occurrence had taken place as alleged by the petitioner in his Petition. Hence the petition was disposed on 14.04.2017 and the same was sent



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to the Petitioner through Registered post on 25.01.2021.”

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5. The petitioner had not impleaded the said Assistant Superintendent of Police, Mr.Aravind Menon in the present writ petition. Without impleading the said officer, no direction can be issued, causing prejudice to the interest of the police officials. Secondly, the incident occurred, when the police was performing their lawful duties and while clearing the crowd in that particular locality. If at all certain inconvenience caused to the petitioner, while performing the public duties, one has to understand that certain small incident if at all happened, the same cannot be a ground to initiate action against the police official.

6. The performance of public duties in good faith is also to be protected by all concern. Public servants are performing their duties even during certain complex circumstances and certain incidents if at all happen beyond their control, then such actions taken in good faith are to be protected under law. Therefore, it is not necessary in all circumstances to initiate action against the police officials in their personal capacity. If there was no intention to cause any such inconvenience to the public, while performing the public duties, then such inconveniences are protected under law. Therefore, this



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Court is of an opinion that an action in this case is not warranted.

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7. The police officers are performing their duties sometimes on certain difficult circumstances and due to pressure, certain inconveniences are caused to the public. If it is found that they have exercised their power excessively, then alone actions are to be initiated.

8. In the present case, the petitioner had not established any abuse or excess exercise of power by the said police official / Assistant Superintendent of Police Mr.Aravind Menon and further, the competent authorities have conducted enquiry and arrived a conclusion that no further action is required.

9. That apart, the incident occurred in the year 2016 and the petitioner being a practising Advocate, have to forget the incident. Advocacy is a noble profession and an amount of tolerance is certainly required as the lawyers are part of Justice delivery system and officers of the Court. Thus, this Court is not inclined to consider the relief as such sought for in the present writ petition.

10. Accordingly, the writ petition stands dismissed. No costs.



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Index : Yes
Speaking order: Yes
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To

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S.M.SUBRAMANIAM, J.

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