



W.P.(MD) No.10672 of 2013.P.(MD) No.10672 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.11.2022

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD) No.10672 of 2013
M.P.Nos.1 and 2 of 2013 and 1 of 2014

Senthil Arumugam

... Petitioner

-VS-

1.The District Collector
Tirunelveli City.

2.The Assistant Commissioner
Law and Order
Palayamkottai, Tirunelveli City.

3.S.Arumugam

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records relating to the proceedings of the 1st respondent made in Na.Ka.No.A2/25058/2012 dated 11.06.2013 and quash the same.

For Petitioner : Mr.N.Mohideen Basha

For Respondents : Mr.A.Thiruvadikumar for R1 & R2
Additional Public Prosecutor
No appearance for R3

1/51/5



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W.P.(MD) No.10672 of 2013.P.(MD) No.10672 of 2013

ORDER

This writ petition has been filed challenging the impugned proceedings of the first respondent dated 11.06.2013, wherein the first respondent has directed the respondent police to appoint a fresh Investigating officer and to conduct a fresh investigation.

2.The third respondent preferred a complaint against the petitioner and based on the same, an FIR came to be registered in Crime No.901/2012 for offences under Sections 294(b), 332, 506(II) IPC r/w Section 3(i) (r) of SC/ST (Prevention of Atrocities), Act, 1989. The investigation was taken up by the second respondent and on completion of the investigation, a closure report was filed as 'mistake of fact' on 06.07.2012.

3.The grievance of the petitioner is that the first respondent, based on the petition submitted by the third respondent, has directed to conduct a re-investigation by appointing another officer. According to the petitioner, the first respondent does not have any power or jurisdiction to order for a re-investigation and if at all the third

2/52/5



W.P.(MD) No.10672 of 2013.P.(MD) No.10672 of 2013

respondent is aggrieved, he can only approach the concerned Court by filing a protest petition and work out his remedy.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents 1 and 2 .

5. In the considered view of this Court, the second respondent took up the investigation and had recorded the statement from the witnesses and on the basis of the materials that were collected during the course of investigation, a closure report came to be filed. Once a closure report is filed, the concerned Court has to send a notice to the de-facto complainant and if the de-facto complainant is aggrieved by the closure report, must file a protest petition and work out his remedy in accordance with law.

6. In the present case, the first respondent has virtually taken over the powers of the Court and has ordered for a re-investigation by appointing a new officer. The first respondent is not vested with any such power under the Scheduled Caste and Scheduled Tribe (Prevention

3/53/5



W.P.(MD) No.10672 of 2013.P.(MD) No.10672 of 2013

of Atrocities) Act, 1989 and the impugned proceedings of the first respondent dated 11.06.2013 is illegal and beyond jurisdiction and the same is liable to be interfered with by this Court.

7. In the result, this writ petition is allowed and the proceedings of the first respondent dated 11.06.2013 is hereby quashed. Consequently connected Miscellaneous Petitions are closed.

02.11.2022

Internet : Yes

RR

To

1.The District Collector
Tirunelveli City.

2.The Assistant Commissioner
Law and Order
Palayamkottai, Tirunelveli City.

4/54/5



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W.P.(MD) No.10672 of 2013.P.(MD) No.10672 of 2013

N.ANAND VENKATESH, J.

RR

WP. (MD)No.10672 of 2013

02.11.2022

5/55/5