



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:28.02.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.3524 of 2022

S.V.Ramkumar

... Petitioner

Vs.

1. The Deputy Inspector General of Police,
Madurai Zone,
Madurai.
2. The Superintendent of Police,
Virudhunagar District,
Virudhunagar.
3. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Aruppukottai,
Virudhunagar District.
4. The Inspector of Police,
Taluk Police Station,
Aruppukottai,
Virudhunagar District.
5. The Inspector of Police,
Pandhalkudi Police Station,
Virudhunagar District.
6. Vijayakumar,
Special Sub Inspector of Police,
CBCID,
Virudhunagar District,
Virudhunagar.
7. Balamurugan,
Aruppukottai Town Police Station,
Virudhunagar District,
Virudhunagar.
8. Mahendran,
Sub Inspector of Police,
Pandhalkudi Police Station,
Virudhunagar District.

9. S.V.Manonmani

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to take departmental action against respondents 6 to 8 for foisting false FIR against the petitioner in Crime No.113 of 2020 dated



13.06.2020 on the file of the 5th respondent.

For Petitioner	: Mr.V.Angusamy
For Respondents	: Mr.D.Sadiq Raja
	Additional Government Pleader

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ORDER

The relief sought for in the present writ petition is to direct the respondents 1 to 3 to take departmental action against the respondents 6 to 8 for foisting false FIR against the petitioner in Crime No.113 of 2020 dated 13.06.2020 on the file of the fifth respondent.

2.The petitioner states that the 9th respondent is his sister, who had deserted her husband. There are certain family dispute exist between the petitioner and 9th respondent. On account of that a civil case has been registered by the petitioner in O.S.No.87 of 2021 on the file of the learned Principal District Judge, Srivilliputhur, now renumbered as O.S.No.61 of 2021 on the file of the Additional District Court, Virudhunagar, seeking partition of the family properties. In this contest, the petitioner states that the 9th respondent in collusion with his brother S.V.Rajkumar breached the contract and the petitioner protested the same in terms of the family arrangements. In spite of that 9th respondent made an attempt to put foundation in the above land with the assistance of the respondents 6 to 8. Though the petitioner submitted a report on 12.06.2020 to the respondents 1 to 4, they are not taking any action on the complaint. The respondents 6 to 8 have hand in glove with each other and thereby foisted a false case against the petitioner as if the petitioner abused 9th respondent with filthy language and registered an FIR in Crime No.113 of 20000 dated 13.06.2020 for the offence under Sections 294(b), 341 and 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

3.There is a growing trend of filing the writ petition against the public servant in the event of initiating action in accordance with law. No doubt, there are instances of excess exercise of power by the public servant and the police officials and there are instances where false cases were also registered. It does not mean that every action of the public servant and the police officials are to be questioned. Whenever the power is exercised in good faith then the aggrieved person has to redress the grievances in the manner known to law. Contrarily, such person cannot file a writ petition to initiate disciplinary action against the public officials. Such a trend can never be encouraged by the Courts and in the event of encouraging such trend, the public officials and the police officials may not be in a position to perform their public duties in an efficient manner. The bona fide exercise of power and the actions taken in good faith by the police officials and the public servants are to be protected by all concerned even if there are instances of excess exercise of power and if it is found that



there is no intention of such exercise of power, then also the department has to take suitable action by conducting an enquiry and the accused persons, against whom a case is registered, cannot file a writ petition for the purpose of initiating action against the public servant/police officials.

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4. Another point of view is also to be considered by this Court. There is a growing trend of filing the writ petition against this public officials/police officials for initiating disciplinary proceedings, in order to threaten them. After filing a writ petition and if those writ petitions are admitted during the pendency of the writ petition, these accused persons are attempting to escape from clutches of law. This is also a tactics followed and therefore, Courts are expected to be cautious while entertaining such writ petition more specifically under Article 226 of the Constitution of India. Mere registration of a criminal case cannot be construed as infringement of rights. Cases are registered based on the complaint. After investigation, the cases may be dropped or it may be proceeded with in accordance with law. If at all the actions are proceeded, various remedies are available for the accused persons under the Criminal Procedure Code. Therefore, such writ petition to initiate disciplinary action against the police officials or for an order to scribe their activities no circumstances be encouraged or appreciated. Thus, such writ petitions filed for initiation of actions against the police officials are to be dealt with based on the facts and circumstances.

5. In view of the fact that mere pendency is also unnecessarily taken advantage of by the accused persons for the purpose of diluting the investigation in a criminal case. All these facts are to be considered equally in cases where excess exercise of power by the police officials are prima facie established by the petitioner, then the Court would be in a position to issue appropriate directions to the higher officials to enquire into the matter and initiate appropriate action. Therefore, mitigating factors are to be considered and mere allegation is insufficient and in the present case, the petitioner, except certain bald allegations, has not established any specific instances of any excess exercise of power or otherwise by the police officials. Therefore, this Court is not inclined to consider the writ petition. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

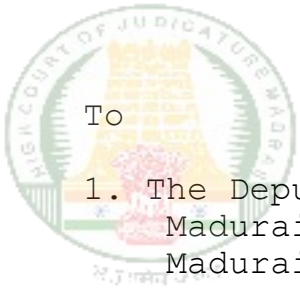
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Sub Assistant Registrar (CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



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+1 CC to M/s.SPL GP (SR-9228[F] dated 01/03/2022)

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SS(CO)

KB(18.03.2022) 4P 10C