



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

WEB COPY

W.A(MD)No. 355 of 2022
and C.M.P.(MD) No. 3534 of 2022
Against WP(MD) No.15383 of 2021

R.Indira

.. Appellant/Petitioner

Vs

- 1.The Director General of Police and
Head of Police Force of Tamil Nadu,
No.1, Dr.Radhakrishnan Salai,
Mylapore,
Chennai - 600 004.
- 2.The Inspector General of Police,
South Zone,
Reserve Line,
Race Course Colony,
Madurai - 625 002.
- 3.The Commissioner of Police,
Madurai City,
Alagarkoil Road,
Madurai - 625 002.
- 4.The Deputy Commissioner of Police (Crime),
Office of the Commissioner of Police,
Madurai City,
Alagarkoil Road,
Madurai-625 002.
- 5.K.P.Manikumar,
The Sub-Inspector of Police,
C.3, S.S.Colony (Crime) Police Station,
S.S.Colony,
Madurai-625016.
- 6.Vimala,
Gr.I Constable,
C.3, S.S.Colony (Crime) Police Station,
S.S.Colony,
Madurai-625016.

<https://hcservices.madurais.gov.in/625016>



7.Kalaivani
(Formerly Inspector of Police,
C.3, S.S.Colony (Crime)PS, Madurai)
Presently,
Inspector of Police,
Abiramam Police Station,
Abiramam, Kamuthi Road,
Ramanathapuram District-623 601.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 03.02.2022 made in W.P.(MD) No. 15383 of 2021.

Prayer in WP(MD) . 15383 of 2021 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS directing the respondents 1 to 4 to take disciplinary action against the 5th 6th and 7th respondents for gross violation of Sec.46(4) Cr.P.C. and further direct to pay compensation of Rs.1.00 lakh by considering the petitioner's representation dated 29.07.2021, within a time limit to be fixed by this Honble Court.

For Appellant : Mr.G.Rajaguru
For Respondents : Mr.S.R.S.Ramachandran
Additional Government Pleader
R1 to R4

JUDGMENT

[Delivered by PARESH UPADHYAY, J.]

Challenge in this appeal is made to the order dated 03 February 2022 recorded on W.P(MD) No.15383 of 2021. This appeal is by the unsuccessful original writ petitioner.

2. Learned advocate for the writ petitioner has made serious grievance that, the petitioner who is a lady was arrested after sunset, which is against the settled position of law and therefore disciplinary proceedings as asked for by the writ petitioner ought to have been ordered by learned Single Judge. It is submitted that this appeal be entertained.

3. Learned advocate for the appellant / original writ petitioner has drawn the attention of this Court to the decision of this Court dated 18 October 2019 recorded on W.P(MD) No.5508 of 2019. Reference is also made to para:14 of the said order which reads as under:-

"14.He further submitted that insofar as the violation of the procedures contemplated under Section 46(4) of Cr.P.C. is concerned, it prohibits the arrest of woman after sunset, except some exceptional circumstances. Only on receiving call



from '100', the police officials had gone to the place of occurrence and found that the arrest of the petitioner is necessary to avoid further incidents affecting the peace and tranquility, the arrest was effected. In fact, on the representation received from the petitioner, the enquiry was ordered in C.No. 138/PG/DCP(L&O)/MC/2019 and the Assistant Commissioner of Police, Thilagarthidal issued summon to the police officials. The petitioner was also appeared on 23.03.2019 and the enquiry is pending. Therefore, the writ petition has been filed only to escape from the clutches of law and also assaulting the law enforcing officials while they were on duty and hence, the present writ petition has to be dismissed with exemplary costs.

4. Learned Special Government Pleader has supported the order passed by learned Single Judge by pointing out the fact that, in the present case, the police had not gone to the residence of petitioner but it is the persons from whom the petitioner had borrowed money brought her to the police station and police had acted strictly in accordance with law with due intimation to the close family member, which in this case is the husband of the writ petitioner - lady. It is submitted that this appeal be dismissed.

5. Having heard learned advocates for the respective parties and having considered the material on record this Court finds that, the learned Single Judge has, on the basis of the pleadings - the application by police seeking remand of the petitioner (as an accused), the order passed by the Magistrate on the said remand application and to the facts and circumstances found that, this is not a case where disciplinary proceedings can be ordered at the instance of the accused, that too in exercise of powers under Article 226 of the Constitution of India. We have considered the reasons recorded by learned Single Judge and we find that, neither the reasons nor the final conclusion can be said to be erroneous in any manner. Therefore this appeal needs to be dismissed. So far reliance placed by learned advocate for the appellant / writ petitioner on the order of this Court (as referred above) is concerned, the said decision was entirely on different facts and it would not help the petitioner.

6. For the reasons recorded above, this writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition would not survive.

Sd/-

Assistant Registrar (AD II)

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/ /2022

Sub Assistant Registrar(CS)



To:

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+1 CC to M/s.G. RAJAGURU, Advocate (SR-19402[F] dated 19/04/2022)

+1 CC to M/s.SPL.GP. (SR-19729[F] dated 20/04/2022)

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19.04.2022

MGJ(28.04.2022) 4P 7C