



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:12.04.2022

CORAM:

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

W.P (MD)No.6790 of 2022

and

W.M.P (MD)No.5237 of 2022

Kaleeswari

... Petitioner

Vs.

1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

2.The Deputy Superintendent of Police,
Sivakasi Range,
Virudhunagar District.

3.The Inspector of Police,
M.Pudupatti Police Station,
M.Pudupatti,
Sivakasi Taluk,
Virudhunagar District.

4.Anbalagan
S/o.Not known
SSI of Police,
Attached to M.Pudupatti Police Station,
Now working in Bathlagundu Police Station,
Dindigul District.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Mandamus, directing the first and second respondents to consider the petitioner's representation dated 30.03.2022 to take departmental proceedings against the fourth respondent in connection to the non-compliance of the conditional order by the accused in FIR in Crime No.3 of 2021 dated 03.01.2021 on the file of the 3rd respondent police, as per the order of this Court dated 11.02.2021 within the time stipulated by this Court.

For Petitioner

: Mr.S.Boominathan

for Mr.P.M.Vishnuvarthanan

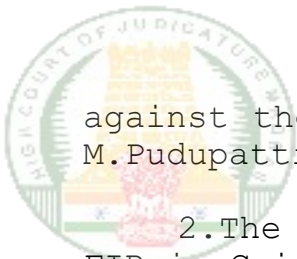
For R1 to R3

: Mr.D.S.Nedunchezian

Government Advocate

ORDER

The relief sought for in the present writ petition is to direct the respondents 1 and 2 to consider the writ petitioner's representation, dated 30.03.2022 to take departmental proceedings



against the fourth respondent, Sub-Inspector of Police, attached to M.Pudupatti Police Station.

2.The petitioner states that she is the de-facto complainant in FIR in Crime No.3 of 2021 dated 03.01.2021 registered on the file of the third respondent police for the offences under Sections 294(b), 506(i) IPC r/w. Section 4 of Tamil Nadu Prevention of Women Harassment Act and Section 67(a) of IT Act. In the aforesaid FIR, four persons were arrayed as accused, viz., A1-Sathyaraj, A2-Muthukumar, A3-Nandhiswaran and A4-Sankar. The accused filed a petition for anticipatory bail before this Court and while granting bail, this Court imposed certain conditions.

3.The grievance of the writ petitioner is that the fourth accused, who is working as a Teacher, is the son of Ex-Panchayat President and he belongs to a political party.

4.The learned counsel for the petitioner made a submission that the fourth accused has not complied with the condition imposed by this Court in anticipatory bail order dated 11.02.2021. The said fact, regarding the non-compliance of the bail condition, was obtained by the petitioner by way of application under the Right To Information Act. The petitioner states that she has taken separate steps under the criminal procedure to cancel the bail granted to the accused persons.

5.Having said that the petitioner has initiated the steps for cancellation of bail, the question arises how the present writ petition is maintainable.

6.The learned counsel for the petitioner contended that the fourth accused has not complied with the bail condition and the fourth respondent, Sub-Inspector of Police is also responsible for violation of the bail condition. Therefore, departmental disciplinary proceedings are to be initiated against the fourth respondent, Sub-Inspector of Police.

7.This Court is of the considered opinion that there is a growing practice amongst the accused persons to initiate litigation against the police officials and other public servants, if they have not fulfilled their requests. Once the Police Officials registered a case, the accused persons are approaching the Court for grant of bail and if bail is granted by the Court, thereafter, if the conditions of bail are violated, the de-facto complainant is entitled to approach the bail Court for cancellation of bail. Contrarily, the de-facto complainant cannot file the writ petition for a direction to initiate disciplinary proceedings against the Police Officials. In this case, the allegations against the fourth accused is that he signed the Attendance Register in the School and thereafter, signed in the Police Station. This facts cannot be
https://hcservices.tn.gov.in/hcservices/



8.This apart, this kind of writ petitions are filed, in order to threaten the police officials from performing their lawful duties and more specifically, by impleading such police officials in their personal capacity. If the police officials and public servants are impleaded in personal capacity in respect of performance of their lawful public duties, then the consequences would be disastrous and such officers would not be in a position to perform their duties in a routine manner. Therefore, such litigations are to be dealt with seriously and it cannot be viewed very leniently. The consequences of such writ petitions would have greater impact in performance of lawful public duties by the officials. It is needless to state that when the police officials exercise excess powers or otherwise, then such excessiveness is to be established with sufficient materials. If such excess exercise is established, then only the Court would be in a position to entertain such writ petition, but not otherwise.

9.In the present writ petition, the petitioner has stated that she has already approached the Criminal Court of Law for cancellation of bail. Whiles, she has filed the present writ petition in order to threaten the police officials by impleading them in their personal capacity. This kind of writ petitions would discourage the public servants from performing their lawful duties. If such litigations are entertained by the Court and keeping it pending for years together, it will result in greater mental agony to police officials and it may affect their service conditions including promotion, retirement benefits etc. Therefore, the Courts are expected to be cautious in entertaining such writ petitions filed by such accused persons or the de-facto complainants in order to achieve their goal through back door methods. Filing a writ petition, in this case, is nothing but a back door method. What the petitioner is unable to do directly made an attempt to do indirectly by impleading the police officials in their personal capacity in the writ petition.

10.The relief sought for in this writ petition is misconceived and untenable. The Criminal Proceedings which all are pending before the competent Court are to be adjudicated in the manner known to law. The petitioner has rightly initiated the steps for cancellation of bail. Simultaneously, filing the present writ petition with some motive cannot be encouraged by this Court.

11.In view of the fact that such writ petitions are frequently filed before this Court causing hindrance to the performance of the lawful duties/police officials, this Court is inclined to impose cost for filing such frivolous litigation with some ulterior motive.

12.Accordingly, this Writ Petition stands dismissed with the cost of Rs.10,000/- (Rupees Ten Thousand only), which is to be paid to M.Pudupatti Police Station and the Inspector of Police, is directed to utilize the said amount for providing some basic



is directed to pay the said amount within a period of two weeks from today. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

WEB COPY

/ /2022

Sub Assistant Registrar(CS)

Ns

To

1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

2.The Deputy Superintendent of Police,
Sivakasi Range,
Virudhunagar District.

3.The Inspector of Police,
M.Pudupatti Police Station,
M.Pudupatti,
Sivakasi Taluk,
Virudhunagar District.

+1 CC to M/s.P.M. VISHNU VARTHANAN, Advocate (SR-18276[F] dated 12/04/2022)

+1 CC to M/s.SPL.GP. (SR-18565[F] dated 13/04/2022)

W.P (MD)No.6790 of 2022

and

W.M.P (MD)No.5237 of 2022

12.04.2022

GM(CO)

KB(26.04.2022) 4P 6C