



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.10362 of 2021

I.Kalanthar Ashik Ahamed

...Petitioner

Vs.

1.The Secretary to the Government,
Home Department, Secretariat, Chennai.

2.The Director General of Police,
Police Headquarters,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 4.

3.Pugalenthir Ganesh,
Formerly the Deputy Superintendent of Police,
Thiruvadanai Sub-Division,
Ramanathapuram District,
and presently, at pattukottai Sub-Division,
Thanjavur District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents No.1 and 2 to consider and dispose of the petitioner's representation dated 03.06.2021 in accordance with law as expeditiously as possible within the time stipulation as prescribed by this Court.

For Petitioner : Mr.R.Anand

For R1 and R2 : Mr.T.Senthil Kumar
Additional Public Prosecutor

For R3 : Mr.V.Vishnu



ORDER

Heard the learned Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents 1 and 2 and the learned Counsel appearing for the third respondent.

2.The petitioner submitted a representation to the respondents 1 and 2 alleging that the third respondent had falsely implicated him in a criminal case, caused injuries to him and also arrested him. The criminal case was quashed by the High Court. The petitioner wants the first respondent to initiate action against the third respondent. He also wants an FIR to be registered against him.

3.This writ petition will not lie. The Hon'ble Supreme Court in **M.Subramaniam v. S.Janaki (2020) 16 SCC 728** held that High Courts cannot direct registration of FIR with a direction to the police to initiate and file final report in view of the judgment in **Sakiri Vasu v. State of U.P., (2008) 2 SCC 409**. In **Sakiri Vasu v. State of U.P.**, it was held that if a person has a grievance that the police station is not registering his FIR, he must approach the Superintendent of Police under Section 154(3) Cr.PC by an application in writing. If that also does not yield any satisfactory result, it is open to the aggrieved person to file an application under Section 156(3) Cr.PC before the learned Magistrate concerned. In **Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and Others (2016) 6 SCC 277**, it was held that the remedy of the aggrieved person is not to go to the High Court under Article 226 of the Constitution of India, but to approach the Magistrate concerned under Section 156(3) CrPC. If the High Courts entertain such writ petitions, then they will be flooded with such writ petitions and will not be able to do any other work except dealing with such writ petitions. The complainant must avail of his alternate remedy to approach the Magistrate concerned under Section 156(3) Cr.PC.

4.If the petitioner is aggrieved by the non-registration of FIR against the third respondent, his remedy is elsewhere. Filing a Writ of Mandamus is clearly not appropriate in the light of the aforesaid decision of the Hon'ble Supreme Court.

5.The petitioner has informed the disciplinary authorities about the acts committed by the third respondent. It is for the disciplinary authority concerned to take appropriate action. The petitioner has no right to compel the authority concerned to initiate disciplinary action against the third respondent. No such right inheres in the petitioner. It is well settled that a Writ of Mandamus will lie only to enforce a legal right. When there is no such legal right inhering in the petitioner, the Writ of Mandamus will not lie. Even if I assume that the third respondent has erred or committed misconduct, still, it is left to the discretion of the disciplinary authority to initiate action against him. Both the requests made by the petitioner in his representation cannot be



enforced by way of Writ of Mandamus. Leaving open all the other rights and remedies, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS III)

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/ /2022

Sub Assistant Registrar(CS)

skm

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Secretary to the Government,
Home Department, Secretariat, Chennai.
- 2.The Director General of Police,
Police Headquarters,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 4.
- 3.The Deputy Superintendent of Police,
Pattukottai Sub-Division,
Tanjore District.

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MGJ(15.03.2022) 3P 4C