



WEB COPY

W.A.(MD)No.566 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2022

CORAM

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A(MD)No.566 of 2022

and

C.M.P.(MD)Nos.4902 to 4904 of 2022

M.Sivakumar

... Appellant/Writ Petitioner

Vs.

- 1.The District Collector, Karur District, Karur.
- 2.The Superintendent of Police, Karur District, Karur.
- 3.The Deputy Superintendent of Police, Karur District, Karur.
- 4.The Sub Inspector of Police, Velliyanai Police Station,
Karur District, Karur.
- 5.The District Child Protection Officer,
District Child Protection Office,
Karur District, Karur.

6.S.Sathish Kumar

7.M.Ganesan

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent to set aside the order passed by this Court in W.P(MD)No.90 of 2022, dated 31.03.2022.

Prayer in WP(MD). 90/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 5th respondent in Na.Ka.No.36/A/Maa.Ku.Paa.A/2020/Karur dated 05.05.2021 and quash the same as illegal and consequently directing the 5th respondent to furnish the copy of the complaint to the respondents No.2 to 4 for appropriate investigation against the unknown culprit and erring officials in accordance with law

For Appellant

:Mr.V.Thirumal

For R1 to R5

:Mr.J.Ashok

Additional Government Pleader



JUDGMENT

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

This appeal is directed against the order passed by the learned Single Judge of this Court in W.P(MD)No.90 of 2022, dated 31.03.2022, dismissing the Writ Petition filed by the appellant.

2.Heard Mr.V.Thirumal, learned Counsel for the appellant and Mr.J.Ashok, learned Additional Government Pleader, who takes notice on behalf of the respondents 1 to 5. By consent of both parties, the Writ Appeal is taken up for final disposal at the admission stage itself.

3.The appellant filed a Writ Petition in W.P.(MD)No.90 of 2022 to quash the impugned order passed by the fifth respondent, namely, the District Child Protection Officer, dated 05.05.2021 and to direct the fifth respondent to furnish a copy of the complaint to the respondents 1 to 4 for the purpose of further investigation against the unknown persons, who had given complaint against the appellant/Writ Petitioner.

4.It is the case of the appellant that he got married with one Saraswathi on 20.09.2009 and his wife got conceived and gave birth to a male child on 09.04.2020. It is the grievance of the appellant that he was harassed by the respondents on the basis of the complaint given by unknown persons in the neighbourhood to the effect that the appellant had kidnapped the child from Anaimalai, Pollachi and growing the child in the appellant's house, as if the child is the appellant's own child and was born to his wife. Though the said complaint was enquired and ultimately found that it is false, the appellant appears to have filed a petition under the Right to Information Act, 2005, to get the copy of the complaint and the name of the persons, who had lodged the said complaint. It is also represented that the said information is required for him to prosecute those, who had made the appellant to suffer. However, the petition filed by the appellant was rejected by the fifth respondent, vide order, dated 05.05.2021. Challenging the same, the appellant has filed the above Writ Petition in W.P(MD)No.90 of 2022.

5.The learned Single Judge, while taking note of the fact that the appellant/Writ Petitioner had filed a second appeal as against the order of the fifth respondent refusing to furnish the information sought for by him, dismissed the Writ Petition by referring to the stand taken by the respondents, to the effect that information sought for by the appellant/Writ Petitioner under the Right to Information Act, 2005, about the details of the complaint need not be furnished to the appellant/Writ Petitioner. Challenging the same, the above Writ Appeal is filed.



6.This Court, taking note of the fact that the appellant had filed a second appeal, which is a statutory remedy is of the view that it is not permissible to entertain a Writ Petition, as the appellant cannot seek parallel remedy. This Court is also of the view that this Writ Appeal can be dismissed with liberty to the appellant to prosecute his appeal filed under the Right to Information Act, 2005, before the Tamil Nadu State Information Commission uninfluenced by any of the observations made by the learned Single Judge in the order made in W.P.(MD)No.90 of 2022.

7.Accordingly, this Writ Appeal is dismissed. However, it is open to the appellant to pursue his appellate remedy, as provided under the Right to Information Act, 2005. It is made clear that the appellate forum shall decide the appeal purely on merits uninfluenced by any of the observations made by the learned Single Judge with regard to the entitlement of the appellant to get the informations sought for by him. No costs. Consequently, connected miscellaneous petitions are closed.

8.Registry is directed to send a copy of this order to the Tamil Nadu State Information Commission.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

cmr

To

- 1.The District Collector, Karur District, Karur.
 - 2.The Superintendent of Police, Karur District, Karur.
 - 3.The Deputy Superintendent of Police, Karur District, Karur.
 - 4.The Sub Inspector of Police, Velliyanai Police Station, Karur District, Karur.
 - 5.The District Child Protection Officer, District Child Protection Office, Karur District, Karur.
 - 6.The Chairman, Tamil Nadu State Information Commission, Chennai.
- +1 CC to M/s.V. THIRUMAL, Advocate (SR-27377[F] dated 22/06/2022)
+1 CC to M/s.SPL.GP (SR-27716[F] dated 23/06/2022)

W.A(MD)No.566 of 2022

21.06.2022

MGJ(01.07.2022) 3P 9C

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