



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:16.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P (MD)No.12780 of 2020

and

W.M.P (MD)No.10851 of 2020

R.Charles

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Home Secretary,
Fort St. George, Secretariat,
Chennai-9.

2.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.

3.The Assistant Commissioner(L& O),
Palayamkottai, Tirunelveli.

4.U.Jency,
Inspector of Police(L&O),
Tirunelveli City Medical College,
Police Station(TVMCH),
Tirunelveli.

5.Mr.C.N.Babu,
No.6, 5th West Street Extension,
Srinivasa Naar, Maharaja Nagar Post,
Palayamkottai,
Tirunelveli District.

6.S.Sivakani,
W/o.C.N.Babu,
No.6, 5th West Street Extension,
Srinivasa Naar, Maharaja Nagar Post,
Palayamkottai,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the second respondent to take appropriate action against the respondent Nos.3, 4, 5 and 6 respondents for collusion, illegal detention and



filing false cases, in three police stations given by the same fifth respondent against the petitioner when the police has already taken statement that it is a civil dispute for specific performance of contract / deficiency service.

For Petitioner : Mr.M.S.Suresh Kumar

For R-1 to R-3 : Mr.A.Thirvadi Kumar,
Additional Public Prosecutor

ORDER

The writ petition has been filed for taking action against the respondents 3, 4, 5 and 6th respondent for collusion, illegal detention and filing false cases against the petitioner.

2. It is the case of the petitioner that on the basis of the complaint lodged by the fifth respondent, the petitioner and his brother by name Prince have been falsely implicated in a case in Crime No.315 of 2020 for the offences under Sections 341, 294(b), 323, 506(ii) of I.P.C r/2 Section 3(1)(R), 3(1)(S) & 3(2)(va) of SC/ST Act. It is the contention that originally there was an oral contract between the petitioner's brother and the sixth respondent over construction of a house property. According to the petitioner, 90% of the work was completed and therefore, the said Prince asked the sixth respondent to pay the balance amount, for which, the fifth respondent has given a false complaint and others colluded with him. In view of the registration of the said case, the petitioner had to surrender before the Court below. Subsequently, the said F.I.R has been closed as 'mistake of fact'. Therefore sought for action against the respondents 3, 4, 5 and 6th respondent for collusion, illegal detention and filing false case against the petitioner.

3. After hearing the learned counsel for the petitioner, this Court is of the view that law was set in motion on the specific allegation made by the fifth respondent. It is relevant to note that any cognizable offence under the SC/ST Act, is indicated in a complaint, and if the public servant failed to register an F.I.R, they will also be prosecuted for the offence under Section 4 of the SC/ST Act. Therefore, merely an F.I.R has been registered, it cannot be stated that they acted in collusion. Similarly, after investigation, it appears that the F.I.R has been closed, that may not be a ground to presume that the respondent police Officers have colluded with the private respondents and filed a false complaint.

4. If at all the petitioner is able to establish that there was malicious prosecution, it is well open to him to establish the same in appropriate forum to seek compensation and to initiate proceedings against the private persons and not against the official respondents.



In the result, the writ petition is dismissed.
Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

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/ /2022

Sub Assistant Registrar(CS)

pm

To:

- 1.The Home Secretary,
Government of Tamil Nadu,
Fort St. George, Secretariat, Chennai-9.
- 2.The Commissioner of Police,
Tirunelveli City, Tirunelveli.
- 3.The Assistant Commissioner(L& O),
Palayamkottai, Tirunelveli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.S.SURESH KUMAR, Advocate (SR-12803[F] dated
17/03/2022)

W.P (MD) No.12780 of 2020
16.03.2022

RD(30.03.2022) 3P 6C