



W.P(MD)No.22686 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2022

CORAM :

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P(MD)No.22686 of 2022

L.Manoharan
S/o.Lakhmanasamy

...Petitioner

Vs.

1.The Director General of Police,
Dr.Rathakrishnan Salai,
Chennai-600 004.

2.The Inspector General of Police,
Madurai South Zone,
Madurai.

3.The Superintendent of Police,
Theni District.

4.Usha,
The Inspector of Police,
All Women Police Station,
Theni.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 to 3 to take departmental action against the fourth respondent by considering the petitioner's representation dated 29.07.2022.



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For Petitioner : Mr.S.Ramasamy
For Respondents : Mr.R.Meenakshi Sundaram
Additional Government Pleader

ORDER

This Writ Petitioner filed this Writ Petition seeking for issuance of a Writ of Mandamus directing the Respondents 1 to 3 to take departmental action against the Fourth Respondent by considering the petitioner's representation dated 29.07.2022.

2. The learned Counsel for the Petitioner submitted that the Petitioner's daughter is studying 1st year at Theni Nadar Saraswathi Women's College. The Petitioner had filed a Civil Suit seeking for recovery of money against one Thamarai Selvan. While the civil case is pending before the Civil Court, the said Thamarai Selvan is alleged to have prevented the petitioner's daughter, who is studying 1st year at Theni Nadar Saraswathi Women's College and he directed his wife to pull the Petitioner's daughter inside their house and further, he abused her in filthy language and also stated that she can get money from him after lying with him. Thereafter, the daughter of the Petitioner escaped from the place and on hearing her voice, the Petitioner rushed towards Thamarai Selvan's house and questioned him. In this connection, he



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preferred a complaint with All Women Police Station, Theni and based upon the complaint, FIR was registered by the Fourth Respondent under Sections IPC and POCSO Act. The Fourth Respondent had sent a alteration report to the Judicial Magistrate and the petitioner had filed the protest petition before the learned Judicial Magistrate.

3. The learned Judicial Magistrate after conducting the enquiry, based on the protest petition, had rejected the alteration report and included POCSO offence. Therefore, the Petitioner was forced to give a complaint to the higher officials including the Superintendent of Police, Theni regarding the alleged misconduct of the investigation officer.

4. The learned Counsel for the Petitioner submitted that this Court may issue a direction to the Respondents 1 to 3 to conduct enquiry regarding the conduct of the Fourth Respondent, on basis of the complaint preferred by the petitioner.

5. The learned Additional Public Prosecutor appearing for the Respondent police submitted that during the course of investigation, the investigation officer had altered the offence, which is alleged in the FIR



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by sending alteration report. The learned Judicial Magistrate had rejected the alteration report. The petitioner had sent a complaint further without waiting for the respondents 1 to 3 to conduct the enquiry and the petitioner had rushed to the Court. Therefore, the learned Additional Public Prosecutor seeks to dismiss this petition.

6. It is the contention of the learned Additional Public Prosecutor that the investigation officer had conducted the investigation fairly and final report was filed by removing POCSO offence and the same was rejected by the learned Judicial Magistrate and the Court had considered the offence of POCSO and numbered as Special Petition No.138 of 2022 and taken on file. Therefore, it is no way prejudiced.

7. This Court considered the submission of the learned counsel for the petitioner and the learned Additional Public Prosecutor (Crl.Side). The submission of the learned Additional Public Prosecutor (Crl.Side) is acceptable and reasonable. In this case, when the Court had rejected the final report by removing POCSO by the investigation officer, but was not considered, based on the protest petition and taken on file as Special Petition No.138 of 2022 by including POCSO offence and the Court had sent records to the Special Court for POCSO offence.



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8. The petitioner is in no way prejudiced as pointed out by the learned Additional Public Prosecutor. Therefore, departmental action against the fourth respondent at this stage is unwarranted. Hence, this Writ Petition is dismissed. No Costs.

14.10.2022

Index :Yes/No
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- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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