



WP(MD)No.23862 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **14.09.2022**

CORAM

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.23862 of 2018

and

W.M.P(MD).No.21594 of 2018

Thangadurai

... Petitioner

/Vs./

- 1.The Government of Tamil Nadu,
rep., by its Secretary,
Home Department,
Secretariat, Chennai -9
- 2.The Director General of Police,
Beach Road, Chennai.
- 3.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
- 4.Balachandran
- 5.Kajendran
- 6.The Dean,
Government Medical College Hospital,
High Ground, Palayamkottai,
Tirunelveli District.

7.Pauldurai

... Respondents



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PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 3 to take necessary action against the respondents 4 and 5 for their unlawful activities committed against the petitioner's son and direct the respondents 1 to 5 to pay the just compensation to the petitioner's son for his victimization.

For Petitioner : Mr.T.Vadivelan
For Respondents : Mr.A.Thiruvadi Kumar, (for R1 to R3)
Additional Public Prosecutor.
Mr.D.Sivaraman (for R7)

ORDER

This writ petition was filed for the issuance of writ of mandamus directing the respondents 1 to 3 to take necessary action against the respondents 4 and 5 for the custodial violence meted against the son of the petitioner.

2.The case of the petitioner is that a complaint was given by the seventh respondent before the fifth respondent Police on the ground that some of the gold ornaments were stolen by unidentified person and based on the same, an FIR came to be registered in Crime No.126 of 2018 for the offence under Sections 457 and 380 of IPC. It is alleged that the son of the petitioner was taken away by the Police in the name of enquiry and he was threatened and brutally beaten up while in custody. As a result of which, he suffered grievous injuries and he was admitted in the Government Hospital at Sathankulam. On



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25.11.2018, ultimately, the seventh respondent withdrew the complaint on the ground that the gold ornaments were not stolen and it was available.

3.In view of the custodial violence as against the son of the petitioner, representations were made to the respondents 1 to 3 to take necessary action against the respondents 4 and 5. Since the same was not considered, the present writ petition was filed before this Court.

4.The fifth respondent has filed a counter affidavit and the relevant portions in the counter affidavit are extracted hereunder:

“

4.It is submitted that on 24.11.2018 around 17 hours when the Inspector of Police was on patrol duty along with HC 248 Ganesan and other Policemen, the police team accosted the son of the petitioner, Thiru Sathish in an inebriated mood by standing in the middle of the road used abusive and filthy language causing repulsion and nuisance to the public and hence the police party had to surrender and apprehend him. He has taken to the police station, a case in Crime No. 127 of 2018 under Section 75 TNCP Act was registered on 24.11.2018 and the accused was released on station bail on the surety provided by his father in law Thiru.Vetrivel Nadar and Anandharaj S/o.Suyambu. Final report was filed and the same was taken cognizance by the learned Judicial Magistrate in STC.No.991/2018 and lastly adjourned to 01.04.2019 for hearing. It is open to the petitioner herein or her son to raise any issue before the learned jurisdictional Court in this connection.



5.It is respectfully submitted that the averment of the petitioner herein in paragraph 5 and 6 of the affidavit are denied as false. In fact the son of the petitioner herein who arrested for vagrancy on 24.11.2018 was let on station bail on the surety produced by one Vetrivel Nadar, the father in law of the accused and one Anandharaj on the production of bond for a sum of Rs.2000/- to produce the accused before the learned Judicial Magistrate, Sathankulam to answer to the charges on 24.11.2018 itself. Hence, the contention that the said Satheesh was laid down in the road at 3 pm., on 25.11.2018 is denied as false.

6.It is respectfully submitted that the averment of the petitioner herein in paragraphs 7 and 8 of the affidavit is denied as imaginary and false as the petitioner herein who was arrested for his vagrancy and for use of filthy words on 24.11.2018 at 5pm., when he was arrested in Crime No.127/2018 under Section 75 TNCP Act on the file of Thattarmadam Police Station and later he was released on station bail when the surety was produced by the father-in-law of the accused and another on the same day. He was not beaten by the respondent police. As per the medical summary available, the son of the petitioner was admitted at the Tirunelveli Medical College Hospital, Tirunelveli on 26.11.2018. apart from X-ray on chest, pelvis, skull, right knee, left knee and right hand CT scan was made over brain, chest and abdomen on 26.11.2018 and 28.11.2018. He was seen by specialists such as Neuro Surgeon and Orthopedic Surgeon and finally the patient was discharged by stating that:

X rays-No bony injury;

CT Scan -No abnormality seen

“The patient was treated conservatively with analgesics and antibiotics and discharged with good GIC (general health condition). Further the Medical Officer has stated that the injury is simple.”



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5. Heard the learned counsel appearing on behalf of the petitioner and Mr.A.Thiruvadikumar, learned Additional Public Prosecutor, appearing on behalf of the respondents 1 to 3.

6. In the considered view of this Court, the incident is said to have taken place in the year 2018. The respondent Police have come up with a parallel case as if an FIR was registered in Crime No.127 of 2018 against the son of the petitioner under Section 75 of the Tamil Nadu City Police Act on 24.11.2018 and the son of the petitioner was also produced before the learned Judicial Magistrate, Sathankulam. That apart, the son of the petitioner was also admitted at Tirunelveli Medical College Hospital on 26.11.2018 and on being examined, the Medical Officer has also given a certificate to the effect that the injury sustained by the son of the petitioner is simple.

7. To enquire into the allegations made against the respondent Police at this stage, more particularly, when there was another case registered against the son of the petitioner and the son of the petitioner having been examined by the Doctor and certificate given, no useful purpose will be served and the very enquiry will become an empty formality. Now, the FIR that was registered in Crime No.126 of 2018 had already been closed and the FIR that was registered



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against the son of the petitioner in Crime No.127 of 2018 has also reached its logical conclusion before the concerned Magistrate Court in STC.No.991 of 2018. At this stage, it will be more appropriate not to unnecessarily reopen the completed chapter. This Court exercises its discretion under Article 226 of the Constitution of India and decided not to precipitate the matter any further.

8.This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

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Internet :Yes/No
Index :Yes/No
Rmk

To

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Beach Road, Chennai.
- 3.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.,

Rmk

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