



W.P.No.3361 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

W.P.No.3361 of 2023

Vinoth

... Petitioner

Vs.

1. The Secretary to Government,
Home Department, Secretariat,
Chennai – 600 009.
2. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.
3. The District Superintendent,
Thiruvannamalai District,
Thiruvannamalai.
4. The Superintendent of Police, (S.P)
Polur Taluk, Polur,
Thiruvannamalai District,
Thiruvannamalai.
5. The Inspector of Police,
Kalampoor Police Station,
Thiruvannamalai District.

... Respondents



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WEB C PRAYER : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Mandamus or any other nature of writ, direct the 5th respondent to consider the petitioner's representation dated 30.12.2022 consequently direct the 5th respondent to delete our both name in final report on the ground of wrongly included as accused persons in Crime No.486 of 2022 dated 27.10.2022 under Sections 294(b), 323, 324, 506(i) of IPC pending on his file.

For Petitioner : Mr.T.V.G.Kartheeban

For Respondents : Mr.S.Santhosh
Government Advocate (Crl.Side)

ORDER

This Writ Petition has been filed seeking to direct the 5th respondent to consider the petitioner's representation dated 30.12.2022 and also to delete the petitioner's name from the final report filed in Crime No.486 of 2022 dated 27.10.2022 under Sections 294(b), 323, 324, 506(i) of IPC pending on his file.



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2. Learned counsel for the petitioner submitted that the petitioner is an accused in Crime No.486 of 2022 registered by the 5th respondent Police for the offences under Sections 294(b), 323, 324, 506(i) of IPC. He further submitted that the allegations made in the complaint are totally false. The petitioner was only trying to prevent the fight between the de-facto complainant and A1, however, the petitioner was also impleaded as an accused in this case. Therefore, the petitioner has filed this present petition.

3. Learned Government Advocate submitted that this petition is not at all maintainable for seeking writ of mandamus to delete the name of the petitioner from the First Information Report in Crime No.486 of 2022. He further submitted that the petitioner ought to have file a petition under Section 482 Cr.P.C., for such a prayer. The allegations in the First Information Report clearly make out the cognizable case against the petitioner. Thus, he prayed for dismissal of the petition.



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4. Considered rival submissions. Perused the records. Reading of the FIR allegations show that the de-facto complainant's father has two wives. There is rivalry between the family of the de-facto complainant and his father's second wife's family. The de-facto complainant has one brother named Sivakumar and his father's second wife one Bhavani has two sons namely Vishnu and Vignesh. On 26.10.2022, at about 9.00 p.m., the de-facto complainant was coming in his two wheeler opposite to Boys Higher Secondary School ground. The said Vignesh, his friends Vinoth and Gopi were standing there. On seeing him, Vignesh had thrown the beer bottle on him. When the de-facto complainant tried to avoid the hit from the beer bottle, he fell down. Then all the three accused had started hitting him with hands and legs. The said Vignesh hit him with stone and made a death threat to him. Therefore the complaint was given.

5. On the basis of the complaint, the First Information Report was registered on 27.10.2022. It is submitted by the learned Government Advocate (Crl,Side) that the investigation in this case is pending. The allegations in the First Information Report show that the petitioner had also beaten the de-facto



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complainant with his hands and legs. This is a cognizable offence and therefore, it needed to be investigated by the respondent Police. This Court, at this stage cannot conduct roving enquiry as to whether the allegations made in the First Information Report are true or not. Prima facie allegations made in the First Information Report shows that the petitioner has also participated in the violent incident perpetrated against the de-facto complainant.

6. Therefore, this Court is not inclined to allow the prayer sought for in this petition. Accordingly, the Writ Petition stands dismissed. No costs. However, the respondent Police is directed to conduct investigation without being influenced by any of the observations made by this Court.

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Index: Yes/No

Speaking/Non speaking order

Neutral Citation Case: Yes/No



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6. The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.

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