



WEB COPY

W.P. No.29819 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.10.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

W.P.No.29819 of 2023

B.Loga Shanmugha Perumal

... Petitioner

-VS-

- 1.The Under Secretary to Government (ARW),
Chief Secretariat -Administrative Reform Wing,
Government of Puducherry,
Puducherry – 605 001.
- 2.The Chief Vigilance Officer,
Chief Secretariat, Goubert Avenue,
Puducherry – 605 001.
- 3.The Director General of Police,
Police Department, Puducherry.
- 4.The Superintendent of Police,
(VAC/Wireless) Cum WIM,
Office of the Superintendent of Police,
Vigilance and Anti-Corruption,
No.271, Mahatma Gandhi Road, Muthailpet,
Puducherry, Pin 605 003.



5. The Inspector,
Lawspet Police Station,
Lawspet Main Road, Petthuchettypet,
Lawspet, Puducherry Pin 605 008.

...Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India to issue a writ of Mandamus, to call for the records of the or/and for a finding that “prima facie fact was found established “issued by the 1st respondent vide I.D. Note dated 11.04.2023 based on the report of the 4th respondent dated 24.03.2023 on 25 points (a) to (y) may be pleased to be perused and in accordance to law direct the 5th respondent to initiate appropriate action against the real culprits responsible for initiating false and malicious prosecution in Spl.SC.No.27 of 2023 (initially Spl.SC.No.20/2020) before PDJ Court, Puducherry) on the file of the FTC Special Court of POSCO under POSCO Act, 2012 at Puducherry.

For Petitioner : Mr.R.Dhakshinamurthy

For Respondents : No appearance

ORDER

This petition is filed invoking writ jurisdiction under Article 226 of the Constitution of India. The petitioner claims that he is innocent but a malicious prosecution has been initiated against him and the same is pending in Spl.SC.No.27 of 2023 (initially Spl.SC.No.20/2020) before PDJ Court,



Puducherry) on the file of the FTC Special Court of POSCO under POSCO Act, 2012 at Puducherry.

2. The case of the petitioner is that there was a departmental proceedings which has indicated that the allegation of malafide complaint against the petitioner herein has some prima facie material. Therefore, it is contended that in the departmental enquiry having found that the petitioner is innocent, the persons responsible for prosecuting him in the pending criminal proceedings has to be subjected to appropriate action.

3. This petition is on the assumption that the report of the first respondent stating that there is a prima facie case found established in the complaint of the petitioner is sufficient to hold the prosecution pending against him in Spl.S.C. No.27 of 2023 on the file of POCSO Court, Puducherry is a malicious prosecution.

4. Though the assumption of the petitioner may be correct, but the prosecution has already been launched, as per the procedure established under law, the petitioner has to undergo the process of testing the evidence placed and a finding by the judiciary that the prosecution launched with malicious intention is required for initiating action. That apart, the letter with I.D. Note



dated 11.04.2023, issued by the first respondent which is now relied upon by the petitioner is a prima facie finding on the complaint given by the petitioner.

That finding also requires appropriate examination in the manner known to law.

5. He has already filed a discharge petition, wherein probably, has raised this ground or not and the said discharge petition is pending. It is always open to him to resort to Section 91 of Cr.P.C before the trial Court and seek for the documents which he rely upon to prove his innocence. The trial Court is the competent Court to consider the merits of the documents and arrive at a conclusion after examining the witnesses. The present Writ Petition is only an attempt to bypass the procedure established under law. Accordingly, this Writ Petition is dismissed. No costs.

19.10.2023

Internet : Yes/No
Index : Yes/No
rkp



To

1. The FTC Special Judge of POSCO under POSCO Act, 2012,
Puducherry.
2. The Under Secretary to Government (ARW),
Chief Secretariat -Administrative Reform Wing,
Government of Puducherry,
Puducherry – 605 001.
3. The Chief Vigilance Officer,
Chief Secretariat, Goubert Avenue,
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Lawspet, Puducherry Pin 605 008.
7. The Public Prosecutor,
Madras High Court, Madras.



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Dr.G.JAYACHANDRAN, J.

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