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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.28075 of 2023

S.Naveenkumar ...Petitioner

Vs

1.The Superintendent of Police,
Thiruvallur District,
Thiruvallur.

2.The Inspector of Police,
B-5, Manvala Nagar Police Station,
Thiruvallur District - 602 002.

3.Suresh ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st respondent to take appropriate legal action against the 3rd respondent who has instituted malicious prosecution against the petitioner based on the representation dated 28.07.2023 made by the petitioner.

For Petitioner : Mr.K.Thilageswaran

For R1 & R2 : Mr.V.Manoharan
Additional Government Pleader

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ORDER

In view of the order to be passed in this Writ Petition, no prejudice would be caused to be third respondent herein and hence, notice to the said respondent is dispensed with.

2. The prayer in the present Writ Petition is for a direction to the first respondent to take legal action against the third respondent who has instituted malicious prosecution against the petitioner based on the representation dated 28.07.2023 made by the petitioner. Apart from requesting for action to be initiated against the third respondent, no other relief is sought for. The locus of a third party to seek for departmental or any other action against a Government employee has already been dealt with by this Court.

3. At the outset, the Writ Petition itself is liable to be dismissed on the ground of maintainability, since this Court had already held in the case of ***Sudalaikannu Vs. The Principal Secretary to Government, Municipal Administration and Water Supply Department, Secretariat, Chennai and others*** passed in ***W.P.(MD) No.8871 of 2018, dated***

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26.04.2018, that a third party cannot stand in the way between an employee and the employer in matters of service disputes, especially, in the context of disciplinary proceedings. For such a proposition, the learned Single Judge therein had placed reliance on a decision of the Hon'ble Division Bench and had come to such a conclusion in the following manner:-

> **.....** **"***14. As it is rightly pointed out by the learned Amicus, the law in this regard is well settled, as a third party, not connected with any service dispute cannot maintain the Writ Petition, invoking Article 226 of the Constitution of India, on the service side seeking a Writ of Mandamus to take action against any employee or officials.*
>
> *15. The theory of personal injury can very well be pressed into the service in this case.*
>
> *16. Admittedly, the petitioner is a third party and though he has claimed to be the social worker, he cannot claim any personal injury of the case of the alleged delayed action of disciplinary proceedings against the official respondent against the private respondent.*
>
> *17. Once the third party cease to be the person, without any personal injury, he cannot*

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maintain the Writ Petition as an adversary Writ Petition.

18. If the petitioner files any adversary writ petition on the service side, because he is a third party, the next question would be naturally raised is that, whether he can file such petitions by way of Public Interest Litigations(PIL).

19. In this regard, it is also brought to the notice of this Court that, the very same petitioner already approached this Court by filing a PIL, where the Division Bench of this Court in W.P.(MD).No.6734 of 2007 in Sudalaikannu Vs., the Secretary, Municipal Administration and Water Supply Department and others dated 23.12.2008 made the following observations which can usefully be pressed into service herein.

"It is seen that the petitioner belongs to a particular political party and he also functioned as a Councilor of the Municipal Corporation. Further, the petition has been filed on frivolous reasons after knowing fully well that action is being taken against respondents-4 to 7. It has been repeatedly held by the Hon'ble Supreme Court as well as by this Court that vexatious applications in the guise of public interest litigations should not be entertained. Since

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the present petition is one of such kind, we hold that the petitioner has no locus standi to file it and the same is liable to be dismissed."

20. Since the very same petitioner has been branded as the frivolous litigant by the judicial pronouncement of the Division Bench Judgment cited supra, with regard to the genuineness of the litigant's nature, attached with the nature of this Court, one cannot have any doubt that, the petitioner certainly has not approached this Court for any good intention and he might have approached this Court with any other private intention (i.e.,) the reason why the petitioner knowing well that he cannot file the writ petition against the official respondent herein, for the alleged inaction on their part on the private respondents herein by way of service dispute, has filed this Writ Petition.

21. If such kind of frivolous litigations are entertained by this Court, that too, in exercising the extraordinary original jurisdiction of this Court under Article 226 of the Constitution of India, this Court is afraid that, there will be pouring of such frivolous litigations by unscrupulous persons every day and that will open the flood gate to so many

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unscrupulous persons to abuse the process of law, to settle their personal score in the guise of service dispute. Therefore, this Court has no hesitation to hold that this petitioner does not have any locus to maintain this writ petition for more than one reason, as he has already been considered to be a frivolous litigant by the Division Bench of this Court."

4. The aforesaid extract is self explanatory. As such, the petitioner herein, who is not an employee and is a third party, cannot maintain the present Writ Petition. Hence, the prayer sought for by the petitioner in this Writ Petition does not deserve consideration.

5. Accordingly, the Writ Petition stands dismissed. No costs.

06.10.2023

Index:Yes/No
Speaking order/Non-speaking order
hvk

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To

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M.S.RAMESH, J.

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06.10.2023

https://www.mhc.tn.gov.in/judis