



W.P(MD)No.11444 of 2014 & CrI OP(MD) No.13929 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 10.11.2023

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.11444 of 2014 and
CrI.OP(MD) No.13929 of 2014

A.Srinivasan

... Petitioner

Vs

- 1.The Home Secretary,
Secretariat,
St.George Fort,
Chennai.
- 2.The Director General Of Police,
O/o the Director General of Police,
Chennai.
- 3.The Deputy Inspector General of Police,
O/o the Deputy Inspector General of Police,
Dindigul.
- 4.The Superintendent of Police,
Madurai District,
Madurai.
- 5.The Inspector of Police,
Nagamalai Pudukkottai Police Station,
Nagamalai Pudukkottai,
Madurai District.



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6.The Superintendent of Police,
CBCID,
Nungambakkam,
Chennai.

7.Kalyani Mathivanan,
O/o Vice Chancellor,
Madurai Kamaraj University,
Palakalai Nagar, Madurai.

8.Muthumanikkam,
Former Registrar-In-Charge,
Professor and Head,
Department of Education,
Madurai Kamaraj University,
Palkalai Nagar, Madurai.

9.P.P.Chelladurai,
Former Head,
Department of Youth Welfare Studies,
Madurai Kamaraj University,
Periyar Street,
Ngo Colony East,
Virudhunagar,
Vidurhunagar District.

10.Arivazhagan,
O/o.Public Relations Officer (Incharge),
Madurai Kamaraj University,
Palkalai Nagar,
Madurai.

11.S.V.K.Selvaraj,
7/666, Jawahar Street,
Ngo Colony, Near Police Station,
Nagamalai, Madurai.



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(R8 to R11 are Impleaded Vide court Order dated 24/08/16 in MP(MD)1/14 by SVJ).

CrI OP(MD) No:13929 of 2014:-

1.Kalyani Mathivanan,
2.A.Muthumanickam,
3.P.P.Cheladurai,
4.K.Arivazhagan,
5.S.V.K.Selvaraj

... Petitioners

Vs

1.The Inspector of Police,
N.P.Kottai Police Station, Madurai.

2. A.Srinivasan

... Respondents

PRAYER in W.P(MD) No.11444 of 2014 : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the Respondents 1 to 3 to withdraw the investigation pertaining to the case in Cr.No. 216 of 2014 on the file of the fifth Respondent and hand over to the 6th Respondent within stipulated time fixed by this Honourable Court.

PRAYER in CrI OP(MD) No.13929 of 2014: Criminal Original Petition filed under 482 of Criminal Procedure Code, to call for the records in connection with FIR No.261/2014 on the file of the 1st respondent dated 16.05.2014 and quash the same.



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For Petitioner	:Mr.Vanchinathan
For R1	:Mr.P.T.Thiraviam Government Advocate
For R2 to R6	:Mr.B.Thanga Aravindh Government Advocate
For R7	:Mr.Sathish Babu
For R9	:Mr.Thayumanaswamy
For R8, R10 & R11	:No appearance (In WP(MD) No.11444 of 2014)

For Petitioner	:No appearance
For R1	:Mr.B.Thanga Aravindh Government Advocate
For R2	:Mr.Vanchinathan for Mr.S.Rajasekarn (In Crl. OP(MD) No.13929 of 2014)

COMMON ORDER

WP(MD) No.11444 of 2014 was filed by one Srinivasan, a retired Tamil Professor at Madurai Kamaraj University, Madurai for a Mandamus, directing the respondents 1 to 3 to withdraw the case in Crime No.216 of 2014 from the file of the Inspector of Police, Nagamalai Pudukkottai Police Station and to hand over the investigation to the Superintendent of Police, CBCID, Nungambakkam, Chennai.



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2.CrI.OP(MD) No.13929 of 2014 was filed by the accused 1 to 5 in Crime No.216 of 2014 on the file of the Inspector of Police, Nagamalai Pudukkottai Police Station, Madurai to quash the proceedings as against them.

3.Since the issue in the writ petition as well as in the Criminal Original Petition is pertaining to the case registered in Crime No.216 of 2014, on the orders of the Honourable Administrative Judge, these cases were tagged together and were listed before the Court, dealing with writ Roster. Since the issue involved in the writ petition and the Criminal Original Petition is interlinked, this Court is inclined to dispose of these matters by way of a common order.

4.The case of the writ petitioner is that he is a retired Tamil Professor at Madurai Kamaraj University, Madurai and a former Syndicate Member and also the President of the retired Teachers and Employees Association of Madurai Kamaraj



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University. This writ petitioner with some grievance as against the functioning of the then Vice Chancellor of Madurai Kamaraj University has made certain agitations as against her that she is not qualified to hold the post and indulged in corrupt practices in the University. He has formed an Organization, namely "Save Madurai Kamaraj University Coalition" and has made several agitations against the University. While so, by referring the action taken as against the Vice Chancellor by the Governor of Kerala, the petitioner has made a representation to His Excellency the Governor of Tamil Nadu as against the then Vice Chancellor of Madurai Kamaraj University and has also given copies to press. Daily newspaper "The Hindu" has also published the case on 15.05.2014. Thereafter, on 16.05.2014, at about 6.30 a.m, when this petitioner was on his routine morning walk, two identified persons brutally attacked him with deadly weapons that how dare he has made a complaint as against the then Vice Chancellor. They said to have attacked the petitioner on his head repeatedly and since the petitioner guarded his head with his two hands, he has suffered multiple fracture injuries on



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both his hands. He was admitted in a Hospital at Bypass Road, Madurai. On the complaint of this petitioner, a criminal case was registered as against the then Vice Chancellor, Registrar and other dignitaries of the University along with two other accused, who attacked the petitioner. The Inspector of Police, Nagamalai Pudukkottai Police Station/the fifth respondent herein has registered a case in Crime No.216 of 2014 for the offences punishable under Sections 294 b, 324, 307 of IPC r/w 109 IPC. The persons who have attacked the victim were arrested by the police and the confession statements of the accused persons were also recorded. In the confession statements, they have projected that they have attacked the petitioner on the instructions of one Jayaraman and one Saravanan, who are the party functionaries of DMK. According to the petitioner, he was attacked on the instigation of the then Vice Chancellor and other accused 1 to 5. However, the fifth respondent has proceeded with the investigation as against one Jayaraman, Saravanan and the hooligans. Therefore, the petitioner has filed this writ petition, seeking transfer of investigation from the file of the



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fifth respondent /Nagamalai Pudukkottai Police Station to CBCID.

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The petitioner has made a specific averment in the writ petition that the fifth respondent has failed to collect the call details of the hooligans, who had attacked him and the accused persons, S.V.K.Selvaraj, Chelladurai, Arivalagan and Saravanan were shown as special guest in the invitation of the marriage of one Jayaraman's daughter, on whose instigation, the hooligans have attacked the writ petitioner as per their confession statements.

5.Pending this writ petition, the accused 1 to 5 have filed a Criminal Original Petition in CrI.OP(MD) No.13929 of 2014 to quash the First Information Report registered as against them that the First Information Report has been registered without any basis.

6.In the meantime, the Superintendent of Police, Madurai District vide his proceedings dated 05.08.2015 transferred the investigation in Crime No.214 of 2016 from the file of the Inspector of Police Nagamalai Pudukkottai Police Station to the



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Deputy Superintendent of Police, Samayanallur Circle. The Deputy Superintendent of Police has also conducted an investigation for some time and filed a report before the Superintendent of Police, Madurai pointing out some lapses in the earlier investigation conducted by the Inspector of Police, Nagamalai Pudukkottai Police Station. He was also retired subsequently on attaining the age of superannuation. This Court, by order dated 22.08.2017 felt that it is not necessary to transfer the investigation to some other investigating Agency at that stage, directed the Superintendent of Police, Madurai District to appoint some other Deputy Superintendent of Police, Madurai to conduct investigation and conclude the same within a period of four weeks. Further direction was also issued to the Superintendent of Police, Madurai to monitor the investigation. Thereafter, one Mohan Kumar, the Deputy Superintendent of Police, Samayanallur Sub Division, Madurai has proceeded with the investigation and filed a final report as against one Siva @ Vayakattusamy, Rajeshkannan, Jeyaraman, and Saravanan for the offences punishable under Sections 294b, 307,



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326 and 120 B of IPC that they have conspired with the main accused for the commission of offence. This final report was filed before the Judicial Magistrate Court No.VI, Madurai on 10.11.2017. However, there is no further progress in view of the pendency of this writ petition.

7.The learned counsel appearing for the petitioner submits that the writ petitioner was attacked by the hooligans on the instigation of the accused 1 to 5 and that can be very well ascertained from the manner in which, the wife of Vayakattusamy and the wife of the Rajeshkannan were awarded an employment in Madurai Kamaraj University, Madurai on 02.03.2015. The learned counsel has relied on the marriage invitation of the daughter of Jayaraman, who said to have organized the Commission of offence and states that the accused 2 to 5 have attended the function as special guests. However, they have been omitted as accused in the final report. The learned counsel has raised a plea that the final report has been filed pending this writ petition.



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8.The learned Government Advocate has produced a copy of the final report and submits that the investigation was conducted by the Deputy Superintendent of Police, Samayanallur on the directions of the Superintendent of Police, Madurai and final report was filed on 10.11.2017 before the Judicial Magistrate Court No.VI, Madurai and it has not been taken on file in view of the pendency of this Writ petition.

9.This Court considered the rival submissions made and also perused the materials placed on record.

10.The writ petitioner having agitated as against the affairs of Madurai Kamaraj University, Madurai appears to have been assaulted on 16.05.2014. Based on his complaint, a case in Crime No.216 of 2014 was registered by the Nagamalai Pudukkottai Police Station. Being not satisfied with the investigation conducted by the Nagamalai Pudukkottai Police station, the petitioner has filed



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this writ petition seeking transfer of investigation from the file of the Nagamalai Pudukkottai Police station to some other investigating agency. However, pending this writ petition, investigation has been transferred from the file of the Inspector of Police, Nagamalai Pudukkottai Police Station to the Deputy Superintendent of Police, Samayanallur by the Superintendent of Police, Madurai vide his proceedings dated 05.08.2015. Initially, the investigation was conducted by one Santha Sorooban. This Court, by order dated 22.08.2017 has directed the Superintendent of Police, Madurai District to conduct an investigation and to conclude the same within a period of four weeks. Accordingly, the investigation has been entrusted with one Mohankumar, the Deputy Superintendent of Police, Samayanallur and he has also filed the final report on 10.11.2017 before Judicial Magistrate Court No.VI, Madurai. Final Report which was filed in the year 2017 is pending without any progress in view of the writ petition pending before this Court. It appears that the concerned Magistrate has also not proceeded further in view of the pendency of this Writ petition.



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11.On perusal of the final report reveals that, the petitioners in Crl.OP(MD) No.13929 of 2014 have not been arrayed as accused in the final report. Therefore, **Crl.OP(MD) No.13929 of 2014 is dismissed as infructuous.**

12.Insofar as the writ petition in WP(MD) No.11444 of 2014 is concerned, since the final report has already been filed before the Judicial Magistrate Court No.VI, Madurai, no order is required to be passed for transfer of investigation at this stage and accordingly, **WP(MD) No.11444 of 2014 is also closed.** However, considering the facts and circumstances of this case, this Court issues the following directions:

- i. As the final report in Crime No.216 of 2014 has already been filed, liberty is granted to the petitioner to work out his remedy before the Judicial Magistrate Court No.VI, Madurai by filing a protest petition.



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ii. If any such application is filed by the petitioner before the concerned Magistrate, the Magistrate shall consider the same and decide the further course of action as contemplated by the Hon'ble Supreme Court in ***Bhagwant Singh vs. Commissioner of Police*** reported in (1985) 2 ***SCC 537***. For better appreciation, the relevant portion from the said decision is extracted as under:

“4. ...When the report forwarded by the officer-in charge of a police station to the Magistrate under sub-section (2)(i) of [Section 173](#) comes up for consideration by the Magistrate, one of two different situations may arise. The report may conclude that an offence appears to have been committed by a particular person or persons and in such a case, the Magistrate may do one of three things: (1) he may accept the report and take cognizance of the offence and issue process or (2) he may disagree with the report and drop the proceeding or (3) he may direct further investigation under sub-section (3) of [Section 156](#) and require the police to make a further report. The report may on the other hand state that, in the opinion of the police, no offence appears to have been committed and where such a report has been made, the Magistrate again has an option to adopt one of three courses: (1) he may accept the report and drop the proceeding or (2) he may disagree with the report and taking the view that there is sufficient ground for proceeding



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*further, take cognizance of the offence and issue process or
(3) he may direct further investigation to be made by the
police under sub-section (3) of [Section 156](#).*

...

*iii. We are accordingly of the view that in a case where the
Magistrate to whom a report is forwarded under sub-section
(2)(i) of [Section 173](#) decides not to take cognizance of the
offence and to drop the proceeding or takes the view that
there is no sufficient ground for proceeding against some of
the persons mentioned in the First Information Report, the
Magistrate must give notice to the informant and provide him
an opportunity to be heard at the time of consideration of the
report.”*

iii. The writ petitioner has raised certain points that the University has rewarded the accused with employment to their wives and the same was accepted and recorded in the final report. This Court, by its order dated 22.08.2017 has recorded that one Santhasooruban, the Deputy Superintendent of Police, Samayanallur Circle, who conducted the investigation pursuant to the orders of this Court, dated 05.08.2015 has filed a report to the Superintendent of Police, Madurai pointing out some



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lapses in the earlier investigation conducted by the Inspector of Police, Nagamalai Pudukkottai Police Station. Hence, the Superintendent of Police, Madurai shall furnish a copy of the interim report as well as the final report to the writ petitioner, enabling him to file a protest petition before the concerned Magistrate Court. The writ petitioner can very well raise all the points, which were raised by him in this writ petition, such as, call details of the persons, who have attacked him has not been collected and the main accused were the chief guests in the marriage function of one of the accused, before the Judicial Magistrate Court No.VI, Madurai.

iv.The learned Judicial Magistrate No.VI, Madurai shall independently consider the points raised by the writ petitioner/victim and if necessary, further investigation by appropriate agency may be ordered or permit the victim to file a private complaint in respect of the other accused.



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v. In the event, if private complaint is filed by the victim, the learned judicial Magistrate No.VI, Madurai shall conduct a joint trial and conclude the proceedings within a period of eight months from the date of receipt of copy of this order.

No costs.

10.11.2023

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

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To

- 1.The Home Secretary,
Secretariat,
St.George Fort,
Chennai.
- 2.The Director General Of Police,
O/o the Director General of Police,
Chennai.
- 3.The Deputy Inspector General of Police,
O/o the Deputy Inspector General of Police,
Dindigul.
- 4.The Superintendent of Police,
Madurai District,
Madurai.
- 5.The Inspector of Police,
Nagamalai Pudukkottai Police Station,
Nagamalai Pudukkottai,
Madurai District.
- 6.The Superintendent of Police,
CBCID,
Nungambakkam,
Chennai.



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B.PUGALENDHI, J

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Common Order made in
W.P(MD) No.11444 of 2014 and
Crl.OP(MD) No.13929 of 2014

10.11.2023