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W.P.(MD)NO.14992 OF 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.14992 of 2014 AND

M.P.(MD)No.1 of 2014

K.Balakumar

... Petitioner

Vs.

1. The Principal Secretary to Government,
Home Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Director General of Police,
Chief Office,
O/o.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.
3. The Commissioner of Police,
O/o.The Commissioner of Police,
Madurai City,
Madurai – 625 001.
4. The Assistant Commissioner of Police,
O/o.The Assistant Commissioner of Police,
Central Crime Branch-Madurai City,
Old Natham Road, Visalakshipuram,
Madurai – 625 014.
5. Elangovan,
Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Dharapuram – 638 656, Thiruppur District.



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6. Pethuraj,
Inspector of Police(IS),
O/o.The Commissioner of Police,
Madurai City, Madurai – 625 001.
7. Sharmila,
Sub Inspector of Police(CS-CID),
O/o.The Inspector of Police(CS_CID),
8th Street, Karpaganagar, K.Pudur,
Madurai – 625 007.
8. Muneeswaran,
Special Sub Inspector of Police(Crime),
D2 Sellur police station,
Madurai – 625 002.
9. Vinoth Kannah @ Kannan
(R-9 is suo motu impleaded
vide order dated 03.07.2023)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents No. 1 to 3 to take department action against the respondents 5 to 8 herein who have been found guilty in the departmental enquiry report dated 25.03.2014 in C. NO. 60/CSR/DC/Crime/MC/14, 20/ADC/PEW/MC/14 submitted by the Additional Deputy Commissioner of Police, Prohibition Enforcement Wing, Madurai City and issue further direction to recover the money of Rs.30 Lakhs with interest, that was illegally extracted by the respondents 5 to 8 from the petitioner and also to pay compensation to the petitioner a sum of Rs. 50 Lakhs for the torture, humiliation, illegal detention and mental torture suffered by him and his family members.



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For Petitioner : Mr.M.Subash Babu,
Senior counsel,
for Mr.C.Susikumar.

For R-1 to R-4 : Mr.S.Shanmugavel,
Additional Government Pleader.

For R-6 : Mr.T.Lajapathi Roy,
Senior counsel,
for Mr.S.Rajasekar

For R-9 : Mr.G.Prabhu Rajadurai

For R-5 to R-8 : No appearance.

* * *

ORDER

Heard the learned Senior counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the official respondents and the learned Senior counsel appearing for the sixth respondent and the learned counsel appearing for the ninth respondent.

2. The case of the writ petitioner is as follows:-

The writ petitioner was running a few business establishments in Madurai. He came in contact with the impleaded respondent. His manager by name Ganesh Kumar



committed criminal misappropriation. The petitioner therefore lodged a complaint dated 21.01.2010 before the Inspector of Police(Crime), Thallakulam. The grievance of the petitioner is that the police officials named in persons indulged in “Katta Panchayat” and coerced the petitioner to part with a huge sum of money in favour of the impleaded respondents. The learned Senior counsel appearing for the petitioner took me through the averments set out in the affidavit filed in support of the writ petition and called upon this Court to grant the following reliefs sought for:-

a) To take action against the police officials named as respondents.

b) To direct them to return a sum of Rs.30 Lakhs collected from the petitioner with interest.

c) The petitioner also demanded payment of compensation to the tune of Rs.50 Lakhs for humiliation and illegal detention suffered by him.

3. Even though the ninth respondent has been mentioned in the affidavit filed in support of the writ petition, for the reasons that are not quite clear, the petitioner did not implead



him. I therefore *suo motu* impleaded the ninth respondent on 03.07.2023. The ninth respondent was called upon to make his stand clear.

4. The learned Senior counsel appearing for the sixth respondent and the learned counsel appearing for the ninth respondent submitted that the petitioner had already lodged the complaint under the provisions of Human Rights Act before the learned Chief Judicial Magistrate, Madurai in CrI.M.P.No.1248 of 2011. It has been committed to the file of the Principal District and Sessions Judge, Madurai in S.C.No.1 of 2021.

5. I went through the contents of the said affidavit. The authorities who are named in person in this writ petition are figuring as accused in the said complaint. The cause of action is one and the same. The prayer is also for trying and punishing the accused and for payment of compensation.

6. As rightly submitted by the learned Senior counsel appearing for the sixth respondent, disputed questions of facts



have been projected for consideration. When the jurisdictional Sessions Court is seized of the very same issue, the petitioner has to work out his remedy there only. In any event, such factual issues cannot be decided in writ proceedings.

7. Granting liberty to the petitioner to pursue his remedy in S.C.No.1 of 2021 before the learned Principal District and Sessions Judge, Madurai, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

24.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

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2. The Director General of Police,
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O/o.The Assistant Commissioner of Police,
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G.R.SWAMINATHAN,J.

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24.07.2023