



W.P.(MD) No.19849 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2023

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THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.19849 of 2014
and
M.P.(MD) No.1 of 2014**

S.Gurusamy

... Petitioner

/vs./

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

2.Menal

3.Sumathi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 2nd and 3rd respondents to pay compensation a sum of Rs.10,00,000/- to the petitioner and his brother and consequently direct the 1st respondent to take department action against the 2nd and the 3rd respondent.

For Petitioner : Mr.C.M.Arumugam
For R1 : Mr.R.M.S.Sethuraman
Additional Public Prosecutor



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For R2 & R3 : Mr.R.Gandhi

ORDER

The writ petition has been filed seeking for a direction to the respondents 2 and 3 to pay compensation of Rs.10,00,000/- to the petitioner and his brother and consequently to direct the first respondent to take departmental action against the respondents 2 and 3.

2.Heard Mr.C.M.Arumugam, learned counsel for the petitioner, Mr.R.M.S.Sethuraman, learned Additional Public Prosecutor for the first respondent and Mr.R.Gandhi, learned counsel for the respondents 2 and 3.

3.Mr.C.M.Arumugam, learned counsel for the petitioner would submit that the petitioner and his brother have been harassed by the respondents 2 and 3. He would submit that originally the petitioner had married one Rajalakshmi during 2008 and that due to her health conditions, which were suppressed at the time of marriage, there has been some dispute between the petitioner and his wife. The petitioner's wife had originally filed a complaint against the petitioner and others. Apprehending arrest, the petitioner had moved this Court for anticipatory bail.



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This Court by order dated 29.01.214 had granted anticipatory bail to the petitioner and his family members.

4.When that being so, on 28.04.2014, the petitioner and his brother, namely Pounraj, were illegally arrested by the third respondent, based on the instructions of the second respondent. In spite of the petitioner's producing a copy of the order passed by this Court granting anticipatory bail, the respondents 2 and 3 proceeded to illegally detain the petitioner and his brother and thereafter, they were brought to All Women Police Station, Sattur and were produced before the learned Judicial Magistrate No.I, Sattur, Virudhunagar District.

5.The learned Judicial Magistrate after perusing various materials did not order to remand the petitioner and his brother. Hence, he would submit that the petitioner is entitled for compensation of Rs.10,00,000/- and that the first respondent should be directed to initiate appropriate departmental proceedings against the respondents 2 and 3.



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6.Countering his arguments, Mr.R.M.S.Sethuraman, learned Additional Public Prosecutor for the first respondent would submit that the petitioner was not arrested based upon the complaint filed in January, 2014. The first complaint filed by the petitioner's wife was closed, as a compromise was entered between the petitioner and his wife. He would further submit that thereafter the petitioner's wife had approached this Court seeking for a direction to register the complaint filed by her. As the complaint was not registered, she had filed a Contempt Petition in Cont.P.(MD) No.261 of 2014 and this Court, by order dated 10.04.2014, had directed the petitioner's wife to give a fresh complaint and thereafter had also directed the respondents 2 and 3 to take appropriate action without reference to the earlier complaint and its closure. Therefore, when the petitioner's wife had given a complaint, which had made out cognizable offence, the petitioner and his brothers were arrested. Therefore, according to him, there is no error committed on the part of the respondents 2 and 3.

7.Mr.R.Gandhi, learned counsel for the respondents 2 and 3 would submit that the second respondent was dismissed from service and the third respondent has already retired from service. He would further submit that the action initiated



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by them is pursuant to the order of this Court in Cont.P.(MD) No.261 of 2014 dated 10.04.2014.

8.He would further submit that the respondents 2 and 3 had not harassed the petitioner or his brother in any manner except duly informing them of their arrest. He would further submit that the anticipatory bail granted by this Court was pursuant to the complaint made by the petitioner's wife, which was made in January, 2014. The said complaint was closed as a CSR, since the petitioner and his wife had entered into a compromise deal. Therefore, he would submit that there was no excesses that has been committed by the respondents.

9.I have heard the rival submissions made by the learned counsels appearing on either side.

10.The writ petition comprises two directions, a) to grant compensation of Rs.10,00,000/- and b) to initiate action against the respondents 2 and 3. As has been pointed out by the learned counsel for the respondents 2 and 3 that the respondents 2 and 3 are not in service any more due to the order of dismissal



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passed against the second respondent and superannuation of the third respondent, the second direction, namely a direction seeking to initiate disciplinary action could not be issued. As regards the payment of compensation, it is seen that the first complaint was closed at the CSR stage based on the compromise between the parties. The second complaint had been registered pursuant to the directions issued by this Court.

11.The anticipatory bail that was originally obtained by the petitioner was based upon the complaint made by the petitioner's wife. Since the complaint was closed as CSR, the order granting anticipatory bail also would efface by closure of the first complaint. The second complaint has been registered pursuant to the direction issued by this Court in Cont.P.(MD) No.261 of 2014 and thereafter, further action has been initiated. The said filing of the subsequent FIR and action taken on the same cannot be termed to be in violation of the anticipatory bail granted by this Court pursuant to the first complaint made by the petitioner's wife. Hence, I do not find any infirmity in the action of the respondents 2 and 3 and therefore, the Writ Petition fails and is accordingly dismissed. However, there



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shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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27.02.2023

To

The Superintendent of Police,
Virudhunagar District,
Virudhunagar.



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K.KUMARESH BABU, J.

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