



W.P(MD)No.13330 of 2015

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

WEB COPY

DATED : 17.07.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.13330 of 2015

K.Selvaraj

... Petitioner

Vs.

1.The State of Tamilnadu,  
Rep by its Chief Secretary to Government,  
Fort St.George,  
Chennai - 600 009.

2.The State of Tamilnadu,  
Rep by its Secretary to Government,  
Home Department,  
Fort St. George,  
Chnnani - 600 009.

3.The Superintendent of Police,  
Kanyakumari District,  
Nagercoil.

4.S.Sankar,  
Sub Inspector of Police,  
Colachel Police Station,  
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,

1/8



**W.P(MD)No.13330 of 2015**

praying this Court to issue a Writ of Mandamus, directing the 1st and 2nd to award a sum of Rs.10 lakhs as compensation to the petitioner for the brutal attack made by the 4th respondent on 30.05.2014 at 'Beginning Bentecostal Trust Church', Malavilai, Kanayakumari District and consequently directing the respondents 1 to 3 herein to take appropriate disciplinary action against the 4th respondent herein for misusing his official duty as per the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules 1955 within a stipulated time as fixed by this Court.

For Petitioner : Mr.L.Shaji Chellan

For Respondents : Mr.S.Shanmugavel,  
Addl. Government Pleader for R1 to R3.  
S.Sankar, Party-in-person for R4.

### **ORDER**

Heard both sides.

2.The writ petitioner is running a crusher unit in Kanyakumari District. He alleges that on 30.05.2014 when he was in church premises



**W.P(MD)No.13330 of 2015**

at around 10.30 pm, a police party headed by the fourth respondent entered the prayer hall and attacked him. The petitioner states that he got himself admitted in Government hospitals and took treatment as inpatient. He sent complaints to various authorities seeking damages and also for taking disciplinary action. Since his request was not considered, the present writ petition came to be filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

4.The Superintendent of Police, Kanyakumari District has filed counter affidavit and the learned Additional Government Pleader took me through its contents. Mr.S.Sankar is present and he adopts the stand taken by the third respondent. Thiru.S.Sankar denied the allegations made against him and submitted that due to personal reasons, he is being repeatedly targeted. The respondents seek dismissal of the writ petition.



W.P(MD)No.13330 of 2015

5.I carefully considered the rival contentions and went through the materials on record. The allegation of the writ petitioner is that in the night hours of 30.05.2014, the occurrence had taken place. The third respondent on the other hand has come out with a complete denial. Paragraph Nos.4, 5, 6, 7 and 8 of the counter affidavit read as follows:-

*“4. It is respectfully submitted that the Police party specially constituted to monitor the crushing units without proper licence under the said S.Sankar, Sub Inspector of Police went to the house of the Petitioner herein for getting a statement that his crusher units are stopped due to want of licence from the competent authority. Since the Petitioner was not available in his house and on being informed that he was attending a prayer meeting at the Prayer House, the police party went there and waited outside the Church Compound till the prayer meeting was over by 10 P.M.*

*5. It is respectfully submitted that after the prayer meeting was over, the Petitioner came out of the church premises and met the police party. On knowing the purpose of arrival of the police party, the Petitioner co-operated with them to give his statement at Kotticodu Police Station and after obtaining the statement, the Petitioner was allowed to leave for his house. He was not at all ill-treated nor beaten by the Police party as alleged. The Police party has also never entered the church premises as alleged. The Police party deputed on*



**W.P(MD)No.13330 of 2015**

*sensitive mission are sensitized not to foray into religious institutions aftermath the 'operation blue-star'. Had this been true the church authorities would have raised huge hue and cry which would have attracted the attention of the whole of the nation.*

*6. It is respectfully submitted that the complaint petition sent by the Petitioner to the Inspector of Police, Thiruvattaru Police Station dated 02.06.2015 a detailed petition enquiry was made on the dictum of Lalithakumari's case'. The enquiry revealed that the incident narrated in the petition was false and motivated. The allegation that the special team went inside the hallowed precinct of the Convention Hall located inside the old Pentecostal church was found to be not true. Had this been true, the Pastor and other Committee Members of the church would have raised hue and cry drawing .the attention of the world and as the Special team was strictly mandated not to commit any sacrilegious act, t they were waiting patiently out- side the church Regarding the alleged injuries caused on the Petitioner herein, the same motivated and devoid of truth appears only to be far-fetched, insofar on getting himself admitted as inpatient in Government Hospital, Thuckalay on 31.05.2014 at 11.30 a.m., the Petitioner himself stated before the Casualty Medical Officer, Government Hospital, Padmanabapuram at 11.50 AM on 31.05.2014 that he was assaulted by known person at 11.00 PM. on 30.05.2014 near Malavilai church. The certifying Medical Officer has recorded as, "No obvious external injuries*



**W.P(MD)No.13330 of 2015**

*and X ray taken in the chest revealed no bone injury and that the nature of injury was recorded as simple in nature by the Radiologist Dr. Sunitha which was endorsed by the Medical Officer who gave the wound certificate. The same opinion was endorsed as 'no bone injury' by the Medical Officer at Asaripallam Government Hospital dated 04.09.2014 where the Petitioner was getting treatment from 5.6.2014 to 7.6.2014. Hence it is clear that the Petitioner herein was not assaulted by the special team as contended by the Petitioner. It is also an admitted fact that the Petitioner herein was a cardiac patient and hence on being admitted for treatment, he is coming out with the present petition alleging atrocity on the part of the Special Team who could have no earthly motive to attack him other than securing the accused on the instruction of the 3rd respondent. Hence the petition enquiry was closed as no further action could be taken against the Police Officials sent on a special duty.*

*7. It is most respectfully submitted that the complaint sent by him to the Inspector General of Police, Madurai Zone was duly enquired by the Deputy Superintendent of Police, Thucklay Sub Division, in which the Petitioner herein appeared for the enquiry and gave a statement that no such complaint was sent by him and hence the complaint was also closed accordingly.*

*8. It is respectfully submitted that any action taken on a false and motivated complaint will only demoralize the Law*



**W.P(MD)No.13330 of 2015**

*Enforcing Agency and prevent them to function effectively in a most sensitive district of Kaniyakumari where even a small and minor incident has the propensity to grow into gigantic proportion affecting peace and tranquillity of the public at large.”*

6.Of course, Writ Courts can grant relief where there are unimpeachable materials. If there are disputed questions of fact, the Writ Court will not be in a position to go into the same. The allegations against of the petitioner will have to be established only in a regular enquiry. There is a Human Rights Commission and there are Civil Courts. Before them, evidence can be adduced and relief obtained.

7.Granted liberty to the petitioner to establish his claim before the jurisdictional Civil Court / Human Rights Commission, this writ petition is disposed of. No costs.

**17.07.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
ias



WEB COPY



**W.P(MD)No.13330 of 2015**

**G.R.SWAMINATHAN, J.**

ias

To:-

- 1.The Chief Secretary,  
Fort St.George,  
Chennai - 600 009.
- 2.The Secretary,  
Home Department,  
Fort St. George,  
Chnnani - 600 009.
- 3.The Superintendent of Police,  
Kanayakumari District,  
Nagercoil.

**W.P(MD)No.13330 of 2015**

**17.07.2023**