



W.P.(MD)No.520 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.07.2023

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THE HON'BLE MR.JUSTICE P.DHANABAL

W.P.(MD)No.520 of 2014
and
M.P.(MD)Nos.1, 2 & 3 of 2014

P.Manickam

... Petitioner

Vs.

- 1.The Commissioner of Police,
Madurai City, Madurai.
- 2.The Deputy Commissioner of Police,
Madurai City, Madurai.
- 3.The Additional Deputy Commissioner of Police,
Prohibition Enforcement Wing,
Madurai City, Madurai.
- 4.The Assistant Commissioner of Police,
Tallakulam, Madurai City.
- 5.The Inspector of Police (L &O),
Tallakulam, Madurai City.

6.Ajeeskhan

7.The Inspector of Police,
CBCID, Madurai.

... Respondents

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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the fourth and fifth respondents to pay a sum of Rs.25 Lakhs towards compensation to the petitioner for their delinquency in their duties and their unlawful acts in the petitioner's complaint dated 27.08.2013 and 16.09.2013 and to direct the fifth respondent to give protection to the petitioner's life from the sixth respondent and his henchmen and to direct the first respondent to transfer the case in Crime No.1131 of 2013 dated 16.09.2013 from the file of the fifth respondent to the seventh respondent for investigation and also to direct the first respondent to conduct fresh enquiry on the report of the second respondent dated 10.10.2013 and consequently punish the fourth and fifth respondent as per provisions of law.

For Petitioner : Mr.S.Balaji

For R1 to R5 & R7 : Mr.R.M.Anbunithi,
Additional Public Prosecutor

ORDER

This Writ Petition has been filed to direct the fourth and fifth respondents to pay a sum of Rs.25 Lakhs towards compensation to the



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petitioner for their delinquency in their duties and their unlawful acts in the petitioner's complaint dated 27.08.2013 and 16.09.2013 and to direct the fifth respondent to give protection to the petitioner's life from the sixth respondent and his henchmen and to direct the first respondent to transfer the case in Crime No.1131 of 2013 dated 16.09.2013 from the file of the fifth respondent to the seventh respondent for investigation and also to direct the first respondent to conduct fresh enquiry on the report of the second respondent dated 10.10.2013 and consequently punish the fourth and fifth respondent as per provisions of law.

2. According to the petitioner, he sent representation to the Police and they have not taken any action. Already he sent three representation on various dates to the respondents police and the same have not been considered by them. Already, the petitioner herein filed a suit in O.S.No.281 of 2010 against Beer Jathi Begam and also got decree in the said suit. The said Beer Jathi Begam made complaint before the fifth respondent and they have registered a case in Cr.No.862 of 2007 and the said case was referred as mistake of fact. Thereafter, the said Beer Jathi Begam filed a private complaint in C.C.No.790 of 2007 and the same is



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pending. On 27.08.2013, at about 09.00 am., the sixth respondent and his relatives trespassed into the house and broken the doors and hence, the petitioner made emergency call to 100 and thereafter, the police went the spot and advised the parties and no FIR was registered. On 27.08.2013, the accused directed the petitioner to vacate the house, otherwise he will give false complaint. On 28.08.2013, the sixth respondent along with henchmen, trespassed into the property and damaged the same and also attacked the petitioner. For that, the fifth respondent visited the house, but, no action was taken. Being aggrieved over the unlawful activities of the fourth and fifth respondents, the petitioner gave a representation dated 07.09.2013 to the second respondent and he assured that his complaint will be enquired. But they have not taken any steps as assured by them. Again, on 13.09.2013, at about 11.00 am., when he was travelled in the car, one Siddick threatened with dire consequences with gun point and taken his money and cell phone and pushed him from the car, without stopping the car. On 14.09.2013, at about 12.00 pm., one Constable attached to the fifth respondent police station obtained statement from the petitioner and thereafter, did not take any action. Thereafter, on 18.09.2013, he went to



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the office of the fourth and fifth respondents and stated about his grievances. But no action was taken. On 16.09.2013, the fifth respondent registered a case in Cr.No.1131 of 2013 for the offences under Sections 147, 148, 452, 364(A), 326, 506(ii) IPC and thereafter, they did not investigate the case properly. On 23.09.2013, the petitioner made a complaint before the second respondent. For that also, no action was taken. Hence, the petitioner filed the present petition.

3.The learned counsel appearing for the petitioner would contend that the petitioner has given so many complaints before the official respondents and they colluded with the private respondent and failed to take any action. Though they registered FIR in Cr.No.1131 of 2013 for the offences under Sections 147, 148, 452, 364(A), 326, 506(ii) IPC, they failed to conduct proper investigation. Therefore, the petitioner filed the present petition to transfer the investigation and to pay compensation of Rs.25,00,000/- for the unlawful act done by the fourth and fifth respondents and to give police protection to the petitioner and also to take disciplinary action as against the erring officials.



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4.The learned Additional Public Prosecutor appearing for the official respondents would contend that already investigation in Cr.No. 1131 of 2013 was completed and on 17.10.2013, final report was filed before the trial Court and the trial Court also taken cognizance in S.C.No.134 of 2016. Therefore, the prayer regarding transfer of the case would not arise. As far as the compensation is concerned, the respondents have not committed any offence as mentioned in the complaint. At this stage, this Court cannot award compensation for the disputed facts. Therefore, this petition is liable to be dismissed.

5.Heard both sides and perused the materials available in the records.

6.On perusal of records shows that the petitioner has sent so many representations before the official respondents and they have not taken any steps. Lastly, FIR was registered in Cr.No.1131 of 2013 and the fifth respondent also conducted investigation and filed final report and now case was also committed to the Sessions Court in S.C.No.134 of 2016.



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Hence, at this stage, prayer of transferring investigation to some other agency become infructuous. The petitioner has prayed to award a sum of Rs.25,00,000/- as compensation. This Court without perusing any records with regard to the so called atrocities committed by the respondents, cannot fix the compensation and the allegations are serious in nature and without any proof, at this stage, this Court cannot award any compensation to the petitioner. If the petitioner aggrieved, he can very well approach the civil Court for seeking appropriate remedy.

7.As far as initiation of disciplinary proceedings as against the official respondents is concerned, it is already settled by this Court in a case of Sudalaikanu Vs. The Principal Secretary to Government and others that third parties cannot approach the High Court under Article 226 of Constitution of India for initiation of disciplinary action. In the above said case, this Court has held as follows:

" 10. The learned senior counsel would also rely upon the decision of the learned Judge of this Court in the matter of K.Padma vs., Vigilance Cell, Madras and Others reported in (2007) 3 MLJ 639, where the learned senior counsel relied upon the following passages:

" The grievance of the petitioner in this writ petition is that the District Munsif, Namakkal, while discharging his



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judicial function, committed irregularities, which made the petitioner to make a complaint to the first respondent, the Vigilance Cell, High Court, Madras. The Vigilance Cell sent recommendations on the same to the Principal District Judge, Namakkal to enquire into the complaint. Also, the proceeding before the Principal District Judge, Namakkal, dated 20.12.2004 which is the Enquiry Report, is filed in the typed set of papers.

2. The entire exercise by the petitioner is highly misconceived. When a complaint against a Judicial Officer is made, it can be enquired into under the Orders of the Hon ble Chief Justice. Any further proceedings on which action to be taken will be decided by him either through the Committees appointed by him or by the Full Court. The petitioner being the complainant has no further role to play in this matter. The Supreme Court, vide decision [Rajnit Prasad v. Union of India AIR 2000 SC 3469](#) : 2000 (9) SCC 313 held that once a complaint is given against a judicial officer his role ends there. The relevant passage found in paragraphs 9 and 10 are as follows:

In respect of departmental proceedings which are initiated or sought to be initiated by the Government against its employees, a person who is not even remotely connected with those proceedings cannot challenge any aspect of the departmental proceedings or action by filing a writ petition in the High Court or in this Court. Disciplinary action against an employee is taken by the Government for various reasons principally for misconduct on the part of the employee. This action is taken after a domestic inquiry in which the employee is provided an opportunity of hearing as required by the constitutional mandate. It is essentially a matter between the employer and the



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employee, and a stranger, much less a practising advocate, cannot be said to have any interest in those proceedings. Public interest of general importance is not involved in disciplinary proceedings. In fact, if such petitions are entertained at the instance of persons who are not connected with those proceedings, it would amount to an abuse of the process of Court.

10. In view of the above, it is not open to the petitioner to challenge the order of the High Court by which the

departmental charge-sheet issued to Dr. U.N. Biswas was quashed. The permission to file the special leave petition is, therefore, refused.

3. In the light of the above, the writ petition filed by the petitioner is misconceived and clearly not maintainable. Hence the writ petition is dismissed. No costs. Consequently, M.P. Nos. 1 and 2 of 2087 are closed."

*11. The learned senior counsel also relied upon the recent decision of the learned Judge made in **V. Vijayalakshmi vs., State of Tamil Nadu represented by its Secretary and others** in W.P.(MD) No.939 of 2018 dated 17.01.2018, where the learned Judge has taken the decision that, the disciplinary action against the officials concerned lies entirely with the employer and it is not for the writ petitioner, who is a private person to ask for a Writ of Mandamus in this regard. The relevant portion of the judgment reads as under:-*

"4. The specific complaint of the writ petitioner is that for a period of suspension, that is, from 04.08.2015 to 10.08.2017, even though her salary has been disbursed by the Government, it was not credited to her account and that the same was



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misappropriated. The writ petitioner, therefore lodged a representation in this regard, for taking appropriate action against the persons who allegedly misappropriated the salary payable to her. Since no action was taken, the present writ petition has been filed for directing the respondents 1 and 2 to take appropriate criminal and disciplinary action against the erring officials.

5.This Court is of the view that the decision to take disciplinary action against the officials concerned, lies entirely with the employer and it is not for the writ petitioner to ask for issuance of Writ of Mandamus in this regard. The writ petitioner has no locus standi in the matter.”.”

8.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. Therefore, the petitioner is not entitled for any relief through this writ petition. If the petitioner is aggrieved by any of the acts done by the official respondents, he can workout his remedy through civil Court, in accordance with law.



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9.In the result, with the above observations, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

27.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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- 3.The Additional Deputy Commissioner of Police,
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P. DHANABAL,J.

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