



WP(MD)Nos.5864, 5865 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)Nos.5864, 5865 of 2014
and
MP(MD)No.1 of 2014

B.T.Arasakumar

: Petitioner in both WPs

Vs.

1.State of Tamil Nadu,
Rep. by the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.

2.The Director General of Police,
O/o.the Director General of Police,
Mylapore, Chennai – 4.

3.E.S.Uma

4.A.Alavuthine

5.M.Ramamurthy

6.P.Ravindra Prakash

7.N.Pugazhaenthi

: Respondents in both WPs



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PRAYER in WP(MD)5864/2014: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus forbearing the respondents from registering any case against the petitioner in violation of the guidelines issued by the Hon'ble Supreme Court in Lalitha Kumari case reported in 2014 (2) SCC 1 belatedly on the claims, which were time barred, deliberately foisted to abuse the power of the police in any manner or compelling the petitioner to settle such arm twisted claims through katta panchayat by the respondent police.

PRAYER in WP(MD)5865/2014: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondents 1 & 2 and 4 to 7 to pay damages jointly and severally a sum of Rs.50,00,000/- to the petitioner in the light of the Hon'ble Apex Court judgment in N.Sengodan v. State of TN reported in 2013 (8) SCC 644 and also in the light of D.K.Basu v. State of West Bengal [(1997) 1 SCC 416] for alleged illegal detention and confinement of the petitioner violating the Article 21 and 22 of the Constitution of India by abusing their official power in registering false cases time barred and using the same for invocation of Tamil Nadu Act 14 of 1982 and terming the petitioner as Goonda, which was set aside by this Court in HCP.No.



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1363 of 2013, dated 14.02.2014 and consequently, initiate necessary action as against the respondents 3 to 7.

For Petitioner : Mr.T.Balakrishnan

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader
for R.1, R.2

No appearance for R.3 to R.7
[In both WPs]

COMMON ORDER

The petitioner claiming to be the founder / President of a political party has filed these writ petitions.

2.The writ petition in WP(MD)No.5864 of 2014 is filed for a mandamus forbearing the respondents from registering any case against the guidelines issued by the Hon'ble Supreme Court in ***Lalitha Kumari v. Government of U.P. and Others [2014 (2) SCC 1]***.

3.The writ petition in WP(MD)No.5865 of 2014 is filed for a mandamus directing the respondents to pay damages for the illegal detention of the petitioner



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in view of the order of this Court in HCP.No.1363 of 2013, dated 14.02.2014, quashing the order of detention and in the light of the decisions of the Hon'ble Supreme Court in *N.Sengodan v. State of TN* [2013 (8) SCC 644] and *D.K.Basu v. State of West Bengal* [(1997) 1 SCC 416].

4. According to the petitioner, he was arrayed as an accused in the following cases:-

Crime No.	Police Station	Section of Law
48 of 2013	Pudukottai District Crime Branch	406, 420, 506(i) IPC
49 of 2013	Pudukottai District Crime Branch	406, 420, 506(i) IPC
50 of 2013	Pudukottai District Crime Branch	406, 420, 294b, 342, 307 IPC
386 of 2013	Pudukottai Town	406, 420, 294(b), 307 IPC
272 of 2013	Viralimalai	294(b), 307, 420, 406 IPC

5. Apart from the above, he was also detained as a Goonda under The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Goondas, Immoral Traffic Offenders, Forest Offenders, Sand Offenders, Slum-Grabbers and Video Pirates Act, 1982.



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6.Learned Counsel appearing for the petitioner submitted all the complaints lodged as against the petitioner are time barred and in most of the cases, civil suits are also pending on the similar set of facts. That apart, the order of detention has been quashed by this Court in HCP.No.1363 of 2013, dated 14.02.2014. Therefore, he sought for a direction as against the registration of complaints and also for damages for the illegal detention.

7.The third respondent has filed a counter affidavit that the petitioner is a habitual offender and that he has suppressed the pendency of several cases against him. For having investigated and registered criminal cases against him, the petitioner has developed grudge against them and in order to threaten them, he has filed this writ petition by arraying them in the individual capacity. Majority of the criminal cases registered as against the petitioner relates to the offence of cheating in the name of education and trust and they are in the preliminary stage. In view of the pendency of these writ petitions, the petitioner has also prevented the further registration of cases as against him.



8. With regard to the plea for damages, the learned Additional Government Pleader submitted that the order of detention was quashed by this Court on procedural informalities and not on its merits. Therefore, he prayed for dismissal.

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

10. The petitioner, who appears to have running a political party, has also involved in several criminal cases. The allegations in Crime No.48 of 2013 is that the petitioner has cheated the complainant therein to the tune of Rs.14,00,000/- by promising that he would get No Objection Certificate for starting a Teacher Training Institute in the year 2002. The allegation in Crime No.49 of 2013 is that the petitioner cheated the complainant in that case to the tune of Rs.12,00,000/- in the year 2011. The allegation in Crime No.50 of 2013 is that he cheated the complainant of that case to the tune of Rs.24,40,000/- in the year 2006. The allegation in Crime No.386 of 2013 is that the petitioner cheated the complainant of that case to the tune of Rs.5,80,000/- in the year 2006. The allegation in Crime No.272 of 2013 is that the petitioner cheated the complainant therein to the tune of



Rs.20,00,000/- by promising to get a No Objection Certificate for running Teacher Training Institute in the year 1992.

11.The nature of allegation in all these complaints are similar that the petitioner has assured complainants that he would get No Objection Certificate for starting Teacher Training Institutes and cheated several Lakhs. It appears, in some of the cases, he got acquittal and some other cases are still pending. Though the petitioner claims that civil suits are pending in this regard, no materials were placed before this Court to substantiate the same.

12.If any complaint with cognizable in nature is lodged before the police officer, the police officer is duty bound to register the complaint as contemplated under Section 154(1) Cr.P.C., and it is extracted as under:-

“154. Information in cognizable cases.

(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read Over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it,



and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.”

13.The police can have no excuse to refuse entertaining a complaint, as that would visit the police officer with disciplinary proceedings, as mandated by the Hon'ble Supreme Court in **Lalita Kumari's** case (supra) and the same is extracted as under:-

"120.4 The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence."

If a police officer fails in his duty to register a complaint, he can be prosecuted under Section 44 of the District Police Act and can also be subjected to disciplinary action.

14.The grievance of the petitioner is that the cases which were registered against him are time barred ones. There is no express limitation period to lodge a complaint under Section 420 IPC and no such relief can be granted in this writ



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petition. However, this writ petition has been entertained by this Court in the year 2014 and by keeping this writ petition pending, the petitioner has prevented further course of action as against him.

15.The petitioner has arrayed the then District Superintendent of Police, Pudukottai; then Inspector of Police, District Crime Branch, Pudukottai; then Inspector of Police, Town Police Station, Pudukottai; and then Inspector of Police, Viralimalai Police Station, Pudukottai, in their individual capacity as respondents, however, he has not made any specific averments as against those officials and not produced any materials to substantiate his case. Though the petitioner disputes the registration of the complaints that they are time barred, he has not refuted the allegations levelled in the complaints.

16.Upon arriving the subjective satisfaction that the petitioner is a habitual offender involving the offence under Section 420 IPC, classified under Chapter XVII, the officials have detained the petitioner under The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Goondas, Immoral Traffic Offenders, Forest Offenders, Sand Offenders, Slum-Grabbers and Video



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Pirates Act, 1982. As rightly pointed out by the learned Additional Government Pleader, the order of detention was quashed by this Court in HCP.No.1363 of 2013, dated 14.02.2014, on the ground of delay in considering the representation of the petitioner, ie., on procedural informalities and not on the merits of the order of detention and as such, it does not entitle the petitioner for any damages.

17.Considering the conduct of this petitioner in arraying the officials including the Superintendent of Police in the individual capacity, without any specific averments as against them and also preventing the officials from proceeding further by keeping these petitions pending, this Court is inclined to dismiss the writ petitions with costs.

Accordingly, both the writ petitions stand dismissed, with a cost of Rs.25,000/- [Rupees Twenty Five Thousand only] for each petition (in total a cost of Rs.50,000/-) payable by the petitioner to the Tamil Nadu Police Benevolent Fund. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
NCC : Yes / No
gk

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To

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