



W.P(MD)No.9190 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9190 of 2015

and

M.P(MD)No.1 of 2015

Mohamed Yusuf

... Petitioner

Vs

- 1.The State represented by
The Home Secretary,
St.George Fort,
Secretariat,
Chennai – 600 009.
- 2.The Director General of Police,
DGP Office,
Beach Road,
Chennai.
- 3.The District Collector,
Thanjavur District,
Thanjavur.
- 4.The Superintendent of Police,
Thanjavur District,
Thanjavur.



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5.The Inspector of Police,
Pattukottai Police Station,
Pattukottai,
Thanjavur.

6.Pitchai Muthukannan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 4 to provide adequate compensation to the petitioner.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.D.Gandhiraj
Special Government Pleader
for R.1 to R.5

Mr.S.Mohamed Suhail for R.6

ORDER

Heard both sides.

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

The petitioner was working in Saudi Arabia. He came down to India during his vacation in August 2014. On 02.08.2014, he along with other family



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members went to Pillaiyarpatti in his Maruthi Omni car for his wife's treatment.

During his return, while crossing Aranthangi Muttam at Pattukkottai Town, the petitioner's brother Jakubar Sadhiq was driving the vehicle. There was a traffic congestion on account of a demonstration organized by one political party. The petitioner's brother reversed the vehicle since the vehicle in front tried to do so. Without understanding the situation, the sixth respondent who was there to regulate the traffic, scolded the petitioner's brother in filthy language by referring to his religion. The petitioner rushed to the nearest police station and lodged a complaint against the sixth respondent. Since it was not taken note of, the petitioner proceeded to the office of the jurisdictional District Superintendent of Police. The sixth respondent took the petitioner and his family members to Pattukkottai Police Station. The sixth respondent slapped the petitioner and also brutally assaulted. The other members of the family were also subjected to harassment. Thereafter, the petitioner was admitted in Pattukkottai Government Hospital. He was taken to Thanjavur Medical College Hospital for further treatment. He was discharged only on 18.08.2014. The petitioner wants the Department to take action against the sixth respondent. He also wants the sixth respondent to be criminally prosecuted and provide him adequate compensation. Representations were submitted in this regard. Since they were not considered, the present writ petition came to be filed.



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3. The fifth respondent had filed counter affidavit. The sixth respondent has also filed counter affidavit. All the allegations made by the writ petitioner have been denied. The stand of the respondents is that on the occurrence date i.e., on 02.08.2014, at about 09.35 p.m, when the Police were engaged in regulating the traffic at market road, a public meeting was addressed by the Hon'ble Minister. There was heavy traffic congestion. The petitioner's brother without adhering to traffic norms drove the Maruthi omni car overtaking the other vehicles which were stranded. The petitioner's vehicle was stopped and notice was issued for traffic violation. Instead of complying with the directions issued by the traffic police, the petitioner came out from the vehicle and picked up quarrel with the sixth respondent. The petitioner used filthy and unparliamentary language and also cursed the Police officials. Since the Minister's meeting was to take place shortly, to avoid any untoward occurrence, the petitioner was taken to Pattukkottai Town Police Station. Crime No.287 of 2014 was registered against the petitioner under Sections 294B, 353 IPC. Final report was filed and the Judicial Magistrate, Pattukkottai took cognizance of the same in C.C.No.554 of 2014. The case is still pending. The sixth respondent who has recently suffered facial paralysis, in his counter affidavit categorically



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denies the allegations made by the petitioner. He also points out that based on the religious colour given by the petitioner, the Tablighi Jamaat conducted agitation and the sixth respondent was also suspended from service. Disciplinary proceedings were initiated. The sixth was eventually exonerated on 19.06.2015. The sixth respondent in his counter affidavit states that he has put in 20 years of service. He pressed for dismissal of the writ petition.

4. The learned Special Government Pleader appearing for the respondents as well as the learned counsel appearing for the sixth respondent submitted that the writ petitioner has given a deliberate communal twist and pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. There is consensus on either side that on the occurrence date, there was severe traffic congestion. This Court can take judicial notice of the fact that we Indians are not known to be traffic rules compliant. The version projected by the Police that the petitioner's brother attempted to overtake and thereby caused further nuisance cannot be ruled out as improbable. There is no prior enmity between the parties. Therefore, according to the Police, they



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served notice on the petitioner's brother for traffic violation. The petitioner who had recently come down from Saudi Arabia had probably attempted to assert himself and that is why, the Police promptly removed him from the scene and took him to the local Police Station where a case was registered against him. The sixth respondent had denied all the allegations made against him. The departmental enquiry was conducted against him and he was also duly exonerated. The learned counsel appearing for the sixth respondent produced a copy of the order dated 19.06.2015 issued by the Deputy Inspector General of Police, Tanjavur Range.

7.The writ Court would normally not be competent to go into the factual aspects when there are allegations and counter allegations. In this case, the sixth respondent's stand has been further strengthened by the exoneration order passed by the jurisdictional Deputy Inspector General of Police. Nothing stopped the petitioner from filing any private complaint against the sixth respondent. He has not done so. Therefore, this Court is not in a position to pass any adverse order against the sixth respondent.

8. But the issue cannot rest there. The materials placed before this Court categorically indicate that the petitioner was admitted in Pattukkottai Government Hospital on 02.08.2014. He had been referred for further



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treatment to Thanjavur Medical College Hospital on 06.08.2014. He was an inpatient in Tanjore Medical College Hospital till 18.08.2014. The fact on record clearly indicate that the petitioner was an inpatient for almost 16 days. The wound certificate issued by the doctors also indicates that the petitioner had contusion in both the legs. If a person, who enters a Police Station in a fit condition, comes out with contusion in his legs, it *prima facie* indicates that he had been subjected to harsh treatment in the police station premises.

9.In the affidavit filed in support of the writ petition, the petitioner had specifically alleged that after registering the case against him, he was admitted in Pattukkottai Government Hospital. The learned counsel appearing for the sixth respondent states that the petitioner was granted station bail and that he himself got admitted in the Government Hospital. This version now put forth by the learned counsel for the sixth respondent does not find any backing in the counter filed by the fifth respondent. The fifth respondent registered a case against the petitioner. The petitioner states that the fifth respondent admitted him in the Government Hospital. I fail to understand as to how the petitioner was admitted in Government Hospital, if nothing had taken place in the Police Station. This averment set out in the petitioner's affidavit has not been controverted or contested or denied by the fifth respondent. Not has he come out with the counter-version. Of course, the wound certificate issued by the



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Government Hospital, Pattukkottai is unclear. But the medical records issued by the Tamil Nadu Medical College Hospital are more than sufficient for me to come to the conclusion that the petitioner has been subjected to harsh treatment in the station premises of Pattukkottai.

10.While I dismiss this writ petition as against the sixth respondent, I cannot exonerate the State of its responsibilities. Prima facie case has been made out that the petitioner has been a victim of high-handedness at the hands of the jurisdictional Police. The petitioner had only quarreled with the sixth respondent. He had not assaulted or used criminal force against any public servant. The offence under Section 353 IPC is clearly not made out. Therefore, continuance of the prosecution in C.C.No.554 of 2014 is clearly unwarranted. The wound certificate issued by the Pattukottai Government Hospital as well as the Government Medical College Hospital, Tanjavur clearly indicate that the petitioner has suffered injuries. The petitioner who is already a victim at the hands of the Police ought not to be vexed with prosecution for a petty quarrel. If I was holding jurisdiction under 482 of Cr.P.C, I would have readily quashed C.C.No.554 of 2014. Since the case has come before me by way of writ petition, I direct the first respondent to file a petition under Section 321 of Cr.P.C to withdraw the prosecution initiated against the petitioner. This shall be done by the first respondent through the concerned Public Prosecutor



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within a period of six weeks from the date of receipt of a copy of this order. On filing of such petition, the learned Judicial Magistrate, Pattukottai shall permit the prosecution to withdraw the case.

11.The case against the sixth respondent cannot now be reopened. This is because in the departmental enquiry itself, he was found to have been exonerated. I am satisfied that the petitioner is a victim of police atrocity. He has been in hospital for almost 16 days. I direct the first respondent to pay a sum of Rs.1,00,000/- (Rupees One Lakh only) as compensation to the petitioner. This shall be done within a period of twelve weeks from the date of receipt of a copy of this order.

12. This writ petition is allowed on these terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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- To
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St.George Fort, Secretariat,
Chennai – 600 009.
 - 2.The Director General of Police,
DGP Office, Beach Road, Chennai.
 - 3.The District Collector, Thanjavur District, Thanjavur.
 - 4.The Superintendent of Police,
Thanjavur District, Thanjavur.
 - 5.The Inspector of Police,
Pattukottai Police Station,
Pattukottai, Thanjavur.



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G.R.SWAMINATHAN, J.

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