

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9197 of 2015

and

M.P(MD)Nos.1 & 2 of 2015

Ansar

... 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 Commissioner of Police,
Tirunelveli District,
Tirunelveli.
- 4.The Inspector of Police,
Melapalayam Police Station,
Tirunelveli.
- 5.Mathavan
- 6.Krishnan

7.Perumal

8.Karnan

... 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 3 to take appropriate action against the respondents 5 to 8 and other identifiable persons and to provide adequate compensation to the petitioner by considering the petitioner's representation dated 31.12.2014.

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

For Respondents : Mr.S.R.A.Ramachandran
Additional Government Pleader
for R.1, R.3 & R.4

Mr.N.Tamilmani for R.5

No Appearance for R.6 & R.7

ORDER

The petitioner is engaged in Hotel business at Tirunelveli. He is also having a readymade shop. The petitioner got married to one Nathira Banu and begot three children through her. Nathira Banu did not want to continue the matrimonial relationship and she issued 'Kula' notice on 29.06.2012. The petitioner accepted the same and pronounced Talaq. Thereafter, at the instigation of somebody, the said Nathira Banu lodged a false complaint. She

managed to influence Police Department through one informer by name Shanavas. The respondents 5 to 7 put pressure on the petitioner to pay a sum of Rs.1.00 Crore as settlement to the said Nathira Banu. They threatened to foist false cases against the petitioner. On 17.12.2014, when the petitioner was in Chennai, the fourth respondent as well as the fifth respondent entered his hotel premises and attacked his employees. All these have been captured in the CCTV. The petitioner was then staying at Greens Lodge, Periyamedu, Chennai. The eighth respondent is a close friend of the fifth respondent. At his instance, the eighth respondent trespassed into the petitioner's room and brutally assaulted him. The petitioner sustained grievous injuries. The petitioner lodged complaints before various authorities including the Human Rights Commission on 30.12.2014. Since no action was initiated, the present writ petition came to be filed.

2. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to direct the respondents to pay adequate compensation to the petitioner. He pointed out that the petitioner is a victim of Police atrocity and that since violation of human rights has been clearly established, compensation can very well be awarded in writ proceedings.

3.The fifth respondent has filed detailed counter affidavit and the learned counsel appearing for the fifth respondent took me through its contents. The stand of the fifth respondent is adopted by the learned Additional Government Pleader appearing for the respondents 1 to 4. The learned Additional Government Pleader as well as the learned counsel appearing for the fifth respondent submitted that the petitioner has not correctly projected the facts and that his human rights have not been violated in any manner. They pressed for dismissal of the writ petition.

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

5.The petitioner has fairly admitted in his affidavit that he was having four wives when he married Nathira Banu. The case of the Police is that Nathira Banu had complained that the petitioner had cheated her and he had told her at the time of marriage that he had only one wife by name Noorjagan and he had married Nathira Banu as his second wife. The case lodged by Nathira Banu was registered as Crime No.21 of 2014 on the file of All Women Police Station, Palayamkottai for the offences under Sections 498(A) IPC and 4 of Tamil Nadu Prohibition of Harassment of Women Act.

6. The case of the fifth respondent is that the petitioner could not be secured and on 17.12.2014 during the night hours, Thiru.Sheik Abdul Kadar, the Special Sub Inspector of Police, Melapalayam Police Station informed the fifth respondent that the petitioner was available in his hotel on the southern bypass road at Tirunelveli and that he is engaged in conspiracy with some extremist elements. The case of the fifth respondent is that he thereupon instructed the said Sub Inspector of Police to come to the hotel as a special party. He further claimed that when they entered the hotel at around 11.30 on 17.12.2015 they saw the petitioner and others escaping from the backyard of the hotel; the hotel staff was laid and resisted the Police party from securing the petitioner. The fifth respondent would claim that in these circumstances they have to employ mild force. In the meanwhile, the petitioner escaped.

7.The petitioner has enclosed some CCTV footage in the typed set of papers. Since a counter version has been projected in the affidavit filed by the fifth respondent, I am not in a position to come to a conclusion that the fifth respondent had acted in a high-handed manner. In any event, even according to the petitioner, he was not assaulted by the fifth respondent. If his hotel employees were victims at the hands of the fifth respondent, nothing stopped them from lodging any complaint against the fifth respondent. But they have

not come either before this Court or before any other authority. On the other hand, they faced prosecution in Crime Nos.669 and 674 of 2014 on the file of Melapalayam Police Station under Section 75 of Tamil Nadu City Police Act, 1988 and appeared to have pleaded guilty.

8.The prime allegation has been made only against the eighth respondent. The petitioner has also enclosed an apology letter written by the eighth respondent. The petitioner appears to have suffered injuries and medical record is also enclosed in the typed set of papers. But, unfortunately, the writ petition has been dismissed as against the eighth respondent as early as on 04.07.2017 itself.

9.I am therefore not in a position to render any finding against the eighth respondent. If I render any finding against the eighth respondent behind his back, that would be a clear violation of the principles of natural justice. It is also seen that the petitioner has given a complaint against the eighth respondent before the Humans Rights Commission. The petitioner is given liberty to proceed against the eighth respondent before the State Human Rights Commission. If any fresh complaint is filed by the petitioner, the same will be entertained and not rejected as barred by limitation against the eighth respondent.

10.With this liberty to the petitioner to move Human Rights Commission on the strength of the allegation made in this writ petition against the eighth respondent, this writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

02.08.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

- 1.The Home Secretary, St.George Fort, Secretariat,
Chennai – 600 009.
- 2.The Director General of Police, DGP Office,
Beach Road, Chennai.
- 3.The Commissioner of Police, Tirunelveli District, Tirunelveli.
- 4.The Inspector of Police, Melapalayam Police Station, Tirunelveli.

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G.R.SWAMINATHAN, J.

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