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W.P.(MD)NO.95 OF 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.95 of 2015

O.Homer Lal

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Home and Police Department,
Secretariat, Chennai – 600 009.
2. The Director General of Police,
Tamil Nadu, Chennai.
3. The Superintendent of Police,
Kanyakumari District
at Nagercoil.
4. M.Suthesan,
Inspector of Police,
Thuckalai police station,
Kanyakumari District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to take action against the 4th respondent for the commission of perjury for filing a concocted final report as if he investigated the same on 14.07.2014 while he was at Chennai on that day based on the



representation of the petitioner dated 21.10.2014 within a time frame that may be stipulated by this Court.

For Petitioner : Mr.S.C.Herold Singh

For R-1 to R-3 : Mr.N.Satheesh Kumar,
Additional Government Pleader.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for respondents 1 to 3.

2. The fourth respondent has been informed about the listing of this case. But he has not chosen to enter appearance.

3. The petitioner had lodged a criminal case against Edward Samraj and others. It was registered in Crime No.505 of 2010 on 14.07.2010. The case was investigated by the fourth respondent herein. He filed final report closing the case as mistake of fact. According to the petitioner, the fourth respondent had committed perjury. Since the fourth



respondent was present in Chennai on 14.07.2010 and 15.07.2010, he could not have conducted any investigation on 14.07.2010 at Thukalay. The case diary indicates that the fourth respondent had made it appear as if he conducted investigation on 14.07.2010 at Thukalay. The petitioner had obtained information by invoking the provisions of RTI Act. The learned counsel appearing for the petitioner placed before this Court, extract from the CD pertaining to Crime No.505 of 2010 as well as extract from pocket diary. It has been convincingly shown that both of them do not tally.

4. The petitioner therefore contended that since the fourth respondent has committed perjury, he must be dealt with departmentally. The third respondent has filed counter affidavit. In the counter affidavit, the petitioner has been painted in a poor light. I need not concern myself with those allegations. Suffice it to say that these are not matters that should engage the attention of the writ Court. If according to the writ petitioner, an erroneous final report was filed by the fourth respondent, remedy open to the petitioner was to file a protest petition and call upon the jurisdictional Magistrate to



reject the final report. In any event, this Court will not be justified in directing the superior authorities of the department to take disciplinary action against a particular subordinate. These are matters in which the employer alone can take a call. Leaving it to the discretion of the department, this writ petition stands disposed of. No costs.

11.07.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

1. The Secretary,
Home and Police Department,
Secretariat, Chennai – 600 009.
2. The Director General of Police,
Tamil Nadu, Chennai.
3. The Superintendent of Police,
Kanyakumari District
at Nagercoil.



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G.R.SWAMINATHAN,J.

PMU

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