



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.2772 of 2024

Yashvardha Shrivastav

... Petitioner

Vs.

The Inspector of Police,
B4, High Court Police Station,
Chennai – 104.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Mandamus, directing the Respondent to exercise his powers under section 195 of Cr.P.C and file a complaint before the concerned Magistrate under Section 182 of Indian Penal Code, 1860 in light of the fact that Inquiry bearing No. B4 PS CSR No.35/2023 dated 12/03/2023 had been closed by the Respondent herein on the ground of 'false complaint'.

For Petitioner : Mr.Muthuchharan Sundresh

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This writ petition has been filed for issue of writ of mandamus directing the respondent to file a complaint before the concerned Magistrate Court under Section

<https://www.mhc18gov.in/jud> 182 of IPC on the ground that the wife of the petitioner had given a false complaint



against the petitioner before the police and the complaint itself was closed as false and the complaint had resulted in causing injury to the petitioner.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent.

3. The case of the petitioner is that his wife had given a complaint on 12.03.2023 against the petitioner as if the petitioner had pushed her near the Family Court. Based on this complaint, the petitioner was summoned by the respondent police and he appeared before the respondent police continuously for a period of seven days starting from 05.05.2023 to 11.05.2023. Whatever questions were posed by the police was answered by the petitioner. Ultimately, the complaint itself was closed as a false complaint.

4. The petitioner is aggrieved by the fact that the petitioner was made to undergo an enquiry based on false complaint and he has suffered an injury thereby, the petitioner wanted action to be taken against the complainant who is the wife of the petitioner. The petitioner cannot initiate any action, since there is a bar under Section 195 of Cr.P.C., and it is only the police who will have to file a private complaint against the wife of the petitioner for offence under Section 182 of IPC.

The petitioner was making repeated representations in this regard and since, the



same did not evoke any response, the present writ petition has been filed before this

Court seeking for appropriate direction.

5. The respondent had filed a status report. The relevant portions in the status report are extracted hereunder:

2. It is submitted that based on the above complaint lodged by Tmt. Shefali Prasad, CSR.No.35/2023, dated: 12.03.2023 was assigned and enquiry was conducted by the then Sub Inspector of Police, Tr.Karthikeyan.

3. It is submitted that the police issued notice to the petitioner and his wife Tmt. Shefali Prasad to appear before the respondent police for enquiry.

4. It is further submitted that subsequently, on various dates, notice has been issued to both the petitioner and his wife Tmt. Shefali Prasad to appear before the respondent police for enquiry. Based on that, the petitioner's counsel appeared before the respondent police on 07.04.2023 due to the petitioner being affected by covid-19. He was undergoing treatment for the same and has submitted his medical documents to the respondent police. But the petitioner's wife Tmt. Shefali Prasad failed to appear before the respondent police for enquiry.

5. It is submitted that the petitioner filed anticipatory bail petition before the Hon'ble High Court of Madras vide



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Crl.O.P.No.7819/2023. When the matter came up for hearing on 13.04.2023, the Hon'ble High Court passed an order as follows:-

"5. Considering the facts and circumstances, the respondent police has to issue notice under section 41 (A) of Cr.P.C to the petitioner and the petitioner is directed to appear before the respondent police after three weeks from today, for a period of one week and thereafter, as and when required for interrogation and the investigation officer has to conduct the enquiry by strictly following the procedures therein and if any prima facie case is made out against the petitioner, register the FIR or close the petition enquiry with a period of two weeks from today. The parties are directed to cooperate with the enquiry. It is needless to say that the respondent police shall not take any coercive steps to secure the accused till the completion of enquiry on the complaint lodged by the defacto complainant."

6. It is submitted that based on the order of the Hon'ble High Court, the petitioner appeared before the respondent police and complied with the conditions from 05.05.2023 to 11.06.2023. During the enquiry, the petitioner has stated that on the alleged date 09.03.2023 around 02.30 p.m., the petitioner booked a call taxi and left to Airport from the High Court campus and the petitioner has also submitted the relevant documents regarding this before the respondent police.



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through Whatsapp messages asking the petitioner's wife Tmt.Shefali Prasad to appear for the enquiry, she failed to do so and did not cooperate for the same. Hence, the said CSR.No.35/2023, dated: 12.03.2023 was closed on 18.05.2023, on the grounds that the Complainant/Tmt.Shefali Prasad has made false allegations against her husband and also has not cooperated for the enquiry.

6.This Court has carefully considered the submissions made on either side and also the materials available on record.

7.There is no dispute with regard to the fact that a complaint was given against the petitioner by his wife and as a result, the petitioner apprehending arrest filed an anticipatory bail petition before this Court and pursuant to the order passed by this Court, the petitioner attended enquiry before the respondent police and ultimately, the complaint itself came to be closed on 12.03.2023. The only question to be decided is as to whether this closure of the complaint will result in an offence under Section 182 of IPC warranting the filing of a private complaint by the police against the complainant who is the none other than the wife of the petitioner.

8.For proper appreciation, Section 182 of IPC is extracted hereunder:

182. False information, with intent to cause public servant to use his lawful power to the injury of another person —



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Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

9.To constitute an offence under Section 182 of IPC, the following ingredients must be satisfied and they are:

- a) An information must have been given by a person to a public servant
- b) The information must have been given by that person who knows or believes that the said information is false and
- c) Such information was given by the complainant with an intention to cause or knowing it to be likely to cause such public servant to do or omit anything if the true state of facts respecting which such information is given where



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known to him or to use the lawful power of such public servant to the injury or annoyance of the person against whom such complaint was given.

10. In the instant case, the status report filed by the respondent shows that the complainant after having given the complaint against the petitioner failed to attend the enquiry and she also did not co-operate for the enquiry. Therefore, the complaint given by the wife of the petitioner in CSR No.35 of 2023 was closed on 18.05.2023. While closing that complaint, the respondent has closed the same by stating that false allegations have been made against the petitioner and the complainant has also not co-operated for the enquiry.

11. It must be kept in mind that while interpreting a criminal provision, the ingredients must be strictly satisfied, since it touches upon the right/liberty guaranteed under Article 21 of the Constitution of India.

12. In the case on hand, the status report shows that the complainant did not co-operate for the enquiry and did not attend the enquiry. Therefore, there was no occasion for the police to examine the complaint and reach any conclusion. Just because the complaint was closed with an endorsement that false allegations have been made against the petitioner, that by itself will not be a ground to institute a private complaint for offence under Section 182 of IPC. There must be a material



before the respondent to substantiate that the complainant had provided a false information and that material can be culled out only if a proper enquiry is made. If there is no such material and the complainant has not even co-operated for the enquiry, except for the complaint, there is nothing else available with the respondent. Therefore, the mere *ipse dixit* of the officer who closed that complaint that it is a complaint with false allegations, does not automatically result in giving private complaint for offence under Section 182 of IPC. Even though, certain judgements were placed before this Court in this regard, it is not necessary to deal with those judgments, since the letter of law under Section 182 of IPC applied to the facts of the case shows that a private complaint will not be maintainable, since it may not satisfy the requirement under Section 182 of IPC.

13. In the light of the above discussion, this Court does not find any ground to grant the relief as sought for by the petitioner. If according to the petitioner, he has been put to hardship and he has been made to attend the enquiry which was instituted based on the complaint of his wife and thereby, some injury had been caused, it will always be left open to the petitioner to seek for damages on the ground of malicious prosecution before the competent Court.

14. This writ petition is disposed of in the above terms. No Costs.



08.03.2024

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

Speaking/Non-Speaking Order
ssr

To

1.The Inspector of Police,
B4, High Court Police Station,
Chennai – 104.

2.The Public Prosecutor,
High Court, Madras.



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N. ANAND VENKATESH, J.

SSI

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