



WEB COPY



W.P.No.11303 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2024

CORAM:

**THE HON'BLE MR.JUSTICE M.S.RAMESH
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN**

**W.P.No.11303 of 2024
and
W.M.P.No.12393 of 2024**

Briska

...Petitioner

VS.

- 1.The Secretary,
Department of Home,
Fort St. George, Chennai.
- 2.The District Collector,
Thoothukudi District,
Thoothukudi.
- 3.The Commissioner of Police,
Thoothukudi District,
Thoothukudi.
- 4.The Commissioner of Police,
Chennai City,
Chennai.
- 5.The Inspector of Police,
J-9 Thoraipakkam Police Station,
Chennai.



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6.The Superintendent of Prisons,
Central Prison Puzhal – I,
Chennai – 66.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to hold an enquiry u/s 152 of Police Standing Orders to hold the enquiry by District Judge, Thoothukudi or Tirunelveli in order to ascertain the facts the detainee Alex Stevenson S/o. John Vijayan is illegal, Fisherman Colony, No.16 St.Peters Church Street, Thoothukudi and produce the detainee Alex Stevenson S/o. John Vijayan, now confined at Central Prison, Puzhal-I, Chennai – 66 before the enquiring District Judge, Thoothukudi or Tirunelveli.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor
assisted by C.Aravind

ORDER

*(Order of the Court was made by **M.S.RAMESH,J.**)*

Heard Mr.R.Sankarasubbu, learned counsel for the petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor, appearing for the respondents.



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2. Allegedly claiming that the petitioner's son Alex Stevenson was mistakenly identified as Chidhambaram, S/o. Palanimuthu and illegally taken into custody in connection with Crime No.462/2019 by J-9 Thoraipakkam Police personnel, for the offences under the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'NDPS Act'), the petitioner seeks for a direction to hold an inquiry under the Tamil Nadu Police Standing Order 152 against the concerned Police officials, in this Writ Petition.

3. It is the claim of the petitioner that her biological son is Alex Stevenson, who has been misidentified as Chidhambaram and implicated in the criminal case. A charge sheet in Crime No.462/2019 was filed against Chidhambaram and another, which culminated into C.C.No.15 of 2020 on the file of the I Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai and ultimately, the said Chidhambaram was convicted on 01.02.2021. It is also stated that he has also preferred an appeal against the judgment and conviction, which is pending.

4. We are unable to appreciate as to why the petitioner had not raised all these grounds when her son was allegedly misidentified as



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Chidhambaram and implicated in the First Information Report at the inception itself. Even thereafter, these objections could have been raised pending the investigation or at the time of filing of the charge sheet. Above all, this alleged mistaken identity could have been taken as a defence before the trial Court also. Having failed to raise such objections during all these stages, the said Chidhambaram was also found guilty of having committed the offences under the NDPS Act by the Special Court in C.C.No.15 of 2020 on 01.02.2021. When the trial Court had passed a judgment identifying the petitioner's son as Chidhambaram, it would not be now open to the petitioner to seek for any action under the guise of mistaken identity. The only option that would be available to the accused would be to challenge the judgment of the trial Court by way of an appeal, which has also been done by him. Thus, when the Court of law has appreciated the evidences against the accused and had also convicted him, the plea of mistaken identity would not be available to him unless the said judgment is set aside on this ground.

5. Standing Order 152 of the Tamil Nadu Police Standing Orders provides for a inquiry by a commission in special cases, which would not include issues that are subject matter of an appeal pending before the



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concerned appellate Court. Thus, there are absolutely no legality or justification to seek for such a prayer in this writ petition.

6. This apart, the petitioner has also abused the due process of law in this matter. Originally, she had filed a Habeas Corpus Petition in H.C.P.No.801 of 2023, claiming that her son Alex Stevenson was in illegal custody of the Police personnel. When such a claim was made, she had suppressed the fact that her son was already convicted by the NDPS Court in C.C.No.15 of 2020 on 01.02.2021. Thereafter, she had withdrawn the said Habeas Corpus Petition on 19.01.2024. Suppressing this fact, she had once again filed another Writ Petition in W.P.No.1132 of 2024 before a learned single Judge of this Court, seeking for disposal of her representation, in which the same grievance was ventilated. In this Writ Petition also, she had suppressed not only her son's conviction by the NDPS Court, but also the withdrawal of H.C.P.No.801 of 2023, dated 19.01.2024. To worsen things, both the orders passed in H.C.P.No.801 of 2023 and W.P.No.1132 of 2024 have now been suppressed in the present Writ Petition.



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7. We do not appreciate the manner in which the petitioner had abused the due process of law and had indulged in so many illegalities. In normal circumstances, we would have awarded exemplary cost. However, the learned counsel for the petitioner sympathetically pleaded that the cost may be avoided. In consideration of the request made, we refrain from imposing cost in this matter.

8. For all the foregoing reasons, the Writ Petition stands dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

(M.S.R.,J.) (S.M.,J.)
13.06.2024

Index:Yes/No
Neutral Citation:Yes/No
Speaking order/Non-speaking order
hvk



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