



WEB COPY



W.P.No.32760 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.32760 of 2024

Elangeshwaran

... Petitioner

Versus

1. The Superintendent of Police,
Cuddalore District

2. G.Ezilarasi
The Sub Inspector of Police,
Reddy Chavadi Police station,
Cuddalore District

3. Shankar
4. Kirubanithi
5. Amudhan

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the 1st respondent to conduct departmental disciplinary proceedings against the 2nd respondent, viz., Ezilarasi as Criminal Case No.16037 of 2023 is pending in the Chief Judicial Magistrate at Cuddalore.

For Petitioner : Dr.R.Ramalingam

For Respondents : Mr.V.P.R.Elamparithi
Additional Government Pleader



W.P.No.32760 of 2024

ORDER

WEB COPY

This petition is filed for an issuance of a Writ of Mandamus directing the 1st respondent to conduct departmental disciplinary proceedings against the 2nd respondent, viz., Ezilarasi as Criminal Case No.16037/2023 is pending before the learned Chief Judicial Magistrate at Cuddalore.

2. According to the petitioner, he has submitted a complaint dated 14.02.2019 against Shankar, Ranganathan, Kiruba and his younger brother Amuthan and Murugan before the respondent police for the damages caused by them to the road, which is near to the agricultural land belonging to one Gunapoosani, nearly two feet breadth and five feet depth. The A.S.S.I. Of police investigated the spot on 14.02.2019 itself and the heaped sand was removed and stones mixed with cement was applied on the damaged spot by Shankar, Kiruba, Amuthan, Murugan and hence it is informed that the road is made ready with stones with cement and therefore, complaint cannot be registered and hence CSR No.106 of 2019 dated 15.02.2019 was issued.



W.P.No.32760 of 2024

WEB COPY

3. Further, the petitioner filed CrI.O.P.No.8484 of 2019 to register the complaint in the said CSR and the said petition was disposed of granting liberty to the petitioner to workout the remedy in accordance with the guidelines. Thereafter, the petitioner preferred petition before the Judicial Magistrate No.II, Cuddalore to register the complaint and the said court passed an order on 03.05.2019 to register the complaint within 7 days. Thereafter, the complaint was registered in Crime No.115 of 2019 on 16.07.2019 under Sections 430 and 431 of IPC, however, Section 3(2)(e) of Prevention of Damages to Public Properties Act was not impleaded. Therefore, the petitioner filed CrI.O.P.No.6411 of 2020 before this Court and this Court directed to complete the investigation and during the course of investigation, if there are ingredients to attract offences as alleged by the complainant, the 2nd respondent was directed to alter the FIR.

4. That apart, the petitioner filed a petition before the learned Judicial Magistrate No.II, Cuddalore to initiate prosecution to terminate the services of the 2nd respondent, but the case was not initiated, therefore, the petitioner filed CrI.M.P.No.2291 of 2020 on 28.10.2020 in the District and Sessions Court, Cuddalore to transfer this case to the



W.P.No.32760 of 2024

WEB COPY

Chief Judicial Magistrate, Cuddalore. The said petition was not transferred, therefore, the petitioner filed Crl.M.P.No.4693 of 2023 to fix an early date to terminate the services of the 2nd respondent. Though the said case is pending, the District and Sessions Judge transferred the case in Crl.M.P.No.16037 of 2024 to the Chief Judicial Magistrate, Cuddalore and this case is posted for further proceedings.

5. Per contra, it is the submission of the learned Additional Government Pleader appearing for the respondents that on 26.08.2020, the said Murugan @ Anantharaman obtained bail, as per the orders passed in C.M.P.No.4963 of 2020, enquiry has been conducted and charge sheet was filed against the accused by the learned Judicial Magistrate No.II, Cuddalore and on 07.06.2024, the same has been taken on file in PRC No.27 of 2024. Thereafter, since the petitioner objected to delete the accused 2 and 3, summons were served on them and they are arrayed as accused in the said case, which is pending investigation. That apart, since the said Murugan @ Anantharaman died, his death certificate has been produced and the case is pending for committal and the case has been adjourned for enquiry of witnesses.



W.P.No.32760 of 2024

WEB COPY

6. Apart from the above, the learned Additional Government Pleader appearing for the respondents submits that already criminal case is pending against the persons, who have damaged the road and the case is in committal stage and they will co-operate with the proceedings.

7. Heard both sides and perused the documents placed on record.

8. On going through the documents it is seen that the petitioner is seeking to initiate disciplinary action against the 2nd respondent on the ground that the 2nd respondent has failed to initiate action on the complaint of the petitioner. Further, it is also seen that already the petitioner approached this Court and this Court has given direction to initiate appropriate proceedings before the Court below by filing a private complaint. Thereafter, the petitioner has filed a private complaint and the same has been taken on file and proceedings have been initiated and if at all the petitioner is aggrieved by the outcome, he can proceed according to law. Also, with regard to initiating disciplinary action, as no details have been given by the petitioner to show what are



W.P.No.32760 of 2024

the right facts and when he approached the authorities and when they have rejected the contention of the petitioner is not known and it is only a oral submission made by the petitioner.

9. Hence, this Court is not inclined to allow the prayer made in the Writ Petition because already a complaint has been given against the persons who have committed offence on 14.02.2019 and a CSR No.106 of 2019 has been laid on 15.02.2019. Thereafter, FIR has been registered on 26.06.2019. The petitioner has not made out a case to proceed with departmental proceedings against the said Police Officer and only on the complaint made by the petitioner appropriate action has been initiated. Further, it is reported that Criminal Case No.16037 of 2023 is pending before the learned Chief Judicial Magistrate, Cuddalore, the trial shall completed as expeditiously as possible.

In the result, the Writ Petition is dismissed.

20.11.2024

Index : Yes/No
Internet: Yes / No
Speaking order : Yes/No

ssd



W.P.No.32760 of 2024

WEB COPY

To

1. The Superintendent of Police,
Cuddalore District
2. G.Ezilarasi
The Sub Inspector of Police,
Reddy Chavadi Police station,
Cuddalore District



WEB COPY



W.P.No.32760 of 2024

V.BHAVANI SUBBAROYAN, J.

ssd

W.P.No.32760 of 2024

20.11.2024