



WP(MD)No.2216 of 2024

WEB COM BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 05.02.2024

Pronounced on: 05.03.2024

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.(MD)No.2216 of 2024

I.Kalanthar Aasik Ahamed

... Petitioner

/vs./

- 1.The Superintendent of Police
Ramanathapuram District.
- 2.The Additional Superintendent of Police,
Crime Against Women and Children,
Ramanathapuram District.
- 3.The Inspector of Police
Thondi Police Station,
Ramanathapuram District.
- 4.The Inspector of Police,
CBCID,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the entire



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records pertaining to the report of the 2nd Respondent dated 03.12.2023 and set aside the same and consequently direct the 4th Respondent to cause a fair and proper investigation on the Petitioner's complaint dated 03.08.2020 and to proceed further in accordance with law.

For Petitioner : Mr.R.Anand

For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

The learned Counsel for the Petitioner submits that the Petitioner is a practising lawyer and practising in Ramnad District as well as before this Court. In view of the fact that he had initiated litigations on behalf of his clients as against the Police Personnel, particularly one Bugalendhi Ganesh, the then Deputy Superintendent of Police, Thiruvadanai Sub Division, Ramanathapuram District and against his sleuth, who were complying with his direction, the police personnel have developed personal animosity against the Petitioner. To wreak vengeance, on 20.02.2020, pursuant to the request of one King Peter and to help one Rajalakshmi in relation to the police enquiry, the Petitioner was called upon. He appeared on summons on 21.02.2020. The complaint was made



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to be given to her before the second Respondent. Thereupon, the Petitioner was informed by the Sub Inspector of Police, Saravanan that the said Rajalakshmi was attending enquiry. The Petitioner could not contact her.

2.On 04.03.2020, the Petitioner was informed that the said King Peter was detained in the Police Station of the second Respondent. The family members of King Peter have requested the Petitioner to cause his intervention for rescuing King Peter. The Petitioner had enquired with the Police Officials regarding the detention of his client. The policemen present in the Police Station questioned the Petitioner for having initiated disciplinary proceedings against the serving Police Officials. The Petitioner was threatened by the Deputy Superintendent of Police that he will be implicated in a criminal case. The Petitioner was directed to be taken and put under detention in All Women Police Station, Thiruvadanai, where the Petitioner was made to remain till next day (07.03.2020).

3.On 07.03.2020, the Petitioner was taken to the Court of the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District for



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remand. When he was produced, the Petitioner had categorically narrated the entire occurrences resulting in filing of the FIR. The Petitioner had complained about the custodial violence meted out by him by the said Deputy Superintendent of Police.

4. On 11.03.2020, the Petitioner was granted bail in Cr.M.P.No.657 of 2020 by the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District. Subsequently, the Petitioner was detained illegally for 44 hours. The Petitioner was shuttled, when he was detained by the Police Officials. On 13.05.2020, the Deputy Superintendent of Police along with 7 other policemen came to the house of the Petitioner and forcibly entered into the house and assaulted the Petitioner and his family members, who came to rescue him. The Petitioner was forcibly taken in a Tata Sumo Car for a distance and during such time, the Petitioner's mobile phone and cash of Rs.6,500/- were forcibly taken by the Policemen, who accompanied the Deputy Superintendent of Police. By around 10.30 pm., the Petitioner was detained in the third Respondent Police Station. The Policemen acting under the orders of the Deputy



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Superintendent of Police brutally attacked the Petitioner causing injury on the head. The Petitioner was taken to the hospital. The records produced by the Hospital Authorities are not reflecting the *bona fide* reasons. The Petitioner obtained orders from the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District seeking action against the Respondents. But no action was taken. Therefore, the Petitioner had approached this Court by filing CrI.O.P.(MD) No.17008 of 2022 seeking direction to register a case against the Deputy Superintendent of Police.

5.The learned Additional Public Prosecutor, by way of reply, submits that this is the second round of litigation. Already, this Court in the earlier order directed the Petitioner that if the Police are not co-operating, the Petitioner shall file a private complaint for the alleged offences. Till date, the Petitioner had not filed any private complaint against the policemen. He would further submit that this Petition lacks merit and it has to be dismissed.



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6. The learned Additional Public Prosecutor relied on the order of this Court passed in ***W.P.No.23868 of 2012 (S.Geetha Vs. The Union of India, represented by its Secretary to the Government, Department of Revenue and Intelligence, New Delhi and others)*** dated 21.06.2023, wherein it had been stated as under:-

“64.This Court has, in the discussion, preceding this conclusion noted various inconsistencies in the statement of the petitioner. It thus falls outside of the realm of this Court, sitting in writ jurisdiction, to render an unequivocal and categorical finding in the affirmative, in regard to the cause of death of the petitioner's husband. This would have been an appropriate matter for the attention of the civil Courts with necessary infrastructure to conduct an in- depth enquiry into evidences including examination of witnesses. The submissions of the petitioner on this score are thus rejected.

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70. There is thus, a primary requirement for the petitioner, in seeking mandamus for compensation, to premise the prayer on facts that are categorical and clear. No doubt, disputes will be raised by the respondents in regard to the version of events, as put forth by the petitioners. However, it is for the Courts to



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reconcile such differences and in doing so, the Court must be left with the impression that the claim of the petitioner is a genuine one, uncoloured by any inconsistencies or contradictions.”

7. On consideration of the rival submissions, the contention of the learned Counsel for the Petitioner even though found acceptable cannot be entertained. As rightly pointed out by the learned Additional Public Prosecutor that this is the second round of litigation. From the earlier order of this Court, it is found that the common citizen of this country, who is having any grievance against the policemen, shall approach the Court for the threat or any intimidation held out by the Police Officials. In spite of the earlier order made in Crl.O.P.(MD) No.17008 of 2022, the Petitioner had remained silent. After one year, this Petition is filed. The direction given to the Respondent Police is to register a case against the Superiors of the Respondents. It cannot be accepted. If really the Petitioner was assaulted and suffered injuries, he ought to have filed the private complaint before the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District along with medical records obtained from the hospital.



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8. When the Petitioner was taken to remand by the third Respondent, he did not mention about the alleged torture or the attack or the abuse on him by the third Respondent. Also, when the Petitioner was taken to the prison, he had not reported the same to the Superintendent of the prison and had stated that the injury was caused as self inflicted at the Police Station. The Petitioner is arraigned as accused for the offence of misbehaving with one woman, who claimed to be a Doctor, but was not actually practising as a Doctor. She stated that the Petitioner is alleged to have misbehaved with her. On her complaint only, he was arrested. On seeing the Police, the Petitioner is alleged to have ran away, fell down and injured himself. This fact was not brought to the knowledge of the learned Judicial Magistrate by the Petitioner. When the jail authorities questioned, he had stated that he fell down and injured himself. When he stated so before the Superintendent of Prison, he cannot now shift the blame on the second Respondent, as though he had been attacked by the second Respondent. When the Doctor at Government Hospital examined him, he is alleged to have stated that the injury was caused as self inflicted.



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Therefore, 3 different versions given. When the facts are disputed, it is not fit for invoking the jurisdiction under Article 226 of the Constitution of India. The Petitioner had not given the details of the injuries on him to the learned Judicial Magistrate. While so as an after thought, he had stated that he suffered injuries at the hands of the second Respondent, which is unacceptable as per the submission of the learned Additional Public Prosecutor.

9.The Petitioner submits that he is a practising lawyer. In the course of his professional contact, he had filed complaints, writ petitions against the public Officials, particularly the Police Officials, which enraged the Police Officers. Therefore, in this case, the Deputy Superintendent of Police had attacked the Petitioner along with policemen. If what had been stated by the Petitioner is true, what prevented him from filing the private complaint stating the same in detail. The omission and commission of the acts for public servant, who is expected to protect the life and limb and properties of the common citizen, the contents of the complaint to attract human rights violation cannot be expected to be registered by the Police.



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Therefore, the Petitioner has to approach the Court of the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District for human rights violation. The repeated behavior of the Petitioner seeking indulgence of this Court for registration of the FIR against the Higher Officials by the Field Officers, Inspector of Police or Sub Inspector of Police, cannot at all be accepted.

In the light of the above, *this Writ Petition is dismissed*. No costs.

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

05.03.2024

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TO:

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SATHI KUMAR SUKUMARA KURUP, J.

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