



Crl.O.P.(MD).No.1944 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.02.2024

CORAM:

THE HONOURABLE Mr. JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.(MD).No.1944 of 2024

Suresh

... Petitioner

Vs.

1.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.

2.The Inspector of Police,
Crime Branch,
Tirunelveli City.

3.The Sub-Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City.
(Crime No.574 of 2021)

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to transfer the investigation in Crime No.574 of 2021 from the third Respondent to the second Respondent.

For Petitioner : Mr.M.Jothi Basu

For Respondents : Mr.B.ThangaAravindh
Government Advocate
(Criminal Side)



Crl.O.P.(MD).No.1944 of 2024

ORDER

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2. The learned Counsel for the Petitioner submitted that the Petitioner is the De-facto Complainant in Crime No.574 of 2021 on the file of the Sub-Inspector of Police, Palayamkottai Police Station, Tirunelveli City. The case of the prosecution is that the Petitioner is working as agriculture officer in Agriculture Department in Sankarankovil, Tenkasi District. On 07.09.2007, the marriage took place between the Petitioner and Priya Dharshini. Out of the wedlock, they were blessed with two sons. It is the further submission of the Petitioner that the wife of the Petitioner had developed illicit relationship with the owner of Green Cotton Textiles, when she was working as labour. On coming to know about the extra marital affair of the Petitioner's wife, the Petitioner and his wife were living separately. Subsequently, the Petitioner's wife filed a petition for maintenance before the Family Court, Tirunelveli in M.C.No.01 of 2019. The Petitioner, who was arrayed as Respondent in that case, has been contesting the same. On 04.01.2021, while the Petitioner was returning after attending Court with regard to M.C.No.01 of 2019, he received a call through his mobile phone, the person who spoke to him identify himself as



Crl.O.P.(MD).No.1944 of 2024

Karutha Pandian. The said persons threatened the Petitioner to withdraw the complaint preferred against his wife, otherwise he will face dire consequences.

Therefore, the Petitioner had preferred complaint with the Respondents 2 and 3. Since no action was taken, the Petitioner was forced to file a complaint under Section 156(3) of Cr.P.C before the learned Judicial Magistrate Court No.I, Tirunelveli in Crl.M.P.No.3813 of 2021. In pursuance thereof, a case has been registered in Crime No.574 of 2021 for the offences punishable under Section 506(i) r/w 109 of IPC. After registration of the case, the accused mentioned in the FIR had obtained Anticipatory Bail. It is the contention of the learned Counsel for the Petitioner that the inaction of the third Respondent had resulted in seeking Anticipatory Bail by the accused mentioned in the FIR. The Investigation has not been proceeded till date.

3. Considering the submission of the learned Counsel for the Petitioner, this Court is of the view that the person serving as an Agricultural Officer in the Government service had been threatened by the local rowdy, for which he had given a complaint. Based on the complaint, the Police had not acted upon the complaint. Subsequently, he was forced to move Crl.M.P.No.3813 of 2021 before the learned Judicial Magistrate No.I, Tirunelveli Town. As per the order of the learned Judicial Magistrate concerned, a case was registered in Crime No.574 of 2021. Till date, the investigation has not proceeded with. It is



Crl.O.P.(MD).No.1944 of 2024

the contention of the learned Counsel for the Petitioner that the call details and other records were not secured by the Police. The inaction on the part of the third Respondent made the Petitioner, who is serving as a Government official, to move this Court seeking protection and also seeking direction to withdraw the investigation. Therefore, the case in Crime No.574 of 2021 is ordered to be withdrawn by the Commissioner of Police, Tirunelveli City and hand over the same to any other officer particularly, as it involves rowdy elements operating in Tirunelveli City, who are conducting Katta Panchayat (Kangaroo Court) and preventing the Petitioner from exercising his civil rights, which was already taken note of by the Principal Seat of this Court when His Lordship Justice Karpagavinayagam was presiding over the Bench in the case of ***Rajendran and Others Vs. The State Rep. By the Sub- Inspector of Police, All Women Police Station, Musiri Taluk, Trichy District*** reported in ***MANU/TN/0353/2004***. Also by the then Hon'ble Chief Justice Markandey Katju in the case of ***K.Gopal Vs. The State of Tamil Nadu represented by Chief Secretary and Others*** reported in ***2005 SCC Online Mad 466***, in which the State Government through its Chief Secretary and Director General of Police were directed to issue circular against the State Government officials not to encourage Khap Panchayat/Katta Panchayat.



Crl.O.P.(MD).No.1944 of 2024

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4. In the light of the above, the Commissioner of Police, Tirunelveli City shall himself conduct an enquiry regarding the investigation conducted by the third Respondent. Therefore, the Commissioner of Police, Tirunelveli City, is directed to take action against the third Respondent for his inaction, inspite of direction from the learned Judicial Magistrate concerned. The conduct of the Police officer in not initiating the investigation as required is found to attract the ruling of the Hon'ble High Court encouraging the extra constitutional powers to intermeddle with the rule of law or particularly Administrative Justice. Therefore, the Commissioner of Police, Tirunelveli City himself has to withdraw the case and post it under the direct supervision of a senior officer either the Deputy Commissioner of Police or Assistant Commissioner of Police, Tirunelveli City and shall supervise it. Also, appropriate action shall be taken against the person, who is alleged to have threatened the Petitioner.

5. In view of the above, this Criminal Original Petition is allowed.

08.02.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



Crl.O.P.(MD).No.1944 of 2024

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- 3.The Sub-Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD).No.1944 of 2024

SATHI KUMAR SUKUMARA KURUP, J.

Nsr

Crl.O.P.(MD).No.1944 of 2024

08.02.2024