



W.P.(MD)No.2881 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2024

CORAM

THE HONOURABLE Mr. JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.(MD)No.2881 of 2024

C.Raju

... Petitioner

Vs.

- 1.The Director General of Police,
Government Railway Police,
No.8, Varadharaj Julu Street,
Chennai – 600 008.
- 2.The Additional Director General of Police,
Government Railway Police,
No.8, Varadharaj Julu Street,
Chennai – 600 008.
- 3.The Superintendent of Police,
Government Railway Police,
No.8, Varadharaj Julu Street,
Chennai – 600 008.
- 4.The Inspector General of Police,
Government Railway Police,
No.8, Varadharaj Julu Street,
Chennai – 600 008.
- 5.The Inspector of Police,
Railway Police Station,
Trichy – 1.



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6. The Divisional Personnel Officer,
Southern Railway,
Divisional Office,
Madurai.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, directing the Respondents to take action against the proposed accused persons based upon the statement given by the Petitioner to the Respondent Police and conduct denova investigation within the stipulated time fixed by this Court.

For Petitioner : Mr.Arul Jenifer
For M/s.KBS Law Office

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

ORDER

The learned Counsel for the Petitioner submitted that the Petitioner had filed this petition for issuance of Mandamus seeking direction against the Respondents to take action against the proposed accused persons based upon the statement given by the Petitioner to the Respondent Police and conduct denova investigation.

2. It is the contention of the learned Counsel for the Petitioner that the Petitioner took voluntary retirement from railway service so that his son would be given employment. Accordingly, the Petitioner's elder son was given job in the railways. While so, his son got married and having three children. The



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Petitioner was informed that his son committed suicide. Thereafter, the Petitioner's grandson namely Santhosh Kumar had informed the Petitioner that the mother /daughter-in-law of the Petitioner herein along with her brothers and sisters joined together and attacked the Petitioner's son brutally on the night prior to his death. Therefore, from the evidence of the child, the Petitioner came to know that there is foul play in the death of his son. Therefore, he took the minor grandson to the Railway Police/5th Respondent to record his statement. Even after recording such a statement from the child, the fifth Respondent had filed a petition before the trial Court that the complaint given by the wife of the deceased had been closed as RCS, notice also given to the wife of the deceased. The Petitioner herein had sought the documents from the Court of the learned Judicial Magistrate and copies were not furnished to him. Then he had moved the petition, the fifth Respondent has submitted further action dropped and closed the complaint as action dropped. Also he had filed such a report before the Court of the learned Judicial Magistrate IV, Trichy in which the learned Judicial Magistrate has passed orders and accepted the report of the Respondent Police. It is the further contention of the learned Counsel for the Petitioner that the Petitioner had approached this Court by way of filing this petition seeking direction against the Respondents to take action against the proposed accused persons based upon the statement given by the Petitioner to the Respondent Police and conduct denova investigation.



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3. The learned Additional Public Prosecutor on instructions from the Respondents would submit that the refer charge sheet proceedings was initiated after notice had been served to the parties. Also he would submit that the order passed on 23.12.2020. The learned Judicial Magistrate had recorded it as notice given to the de-facto Complainant. Still they have not preferred any appeal. Therefore, the learned Judicial Magistrate had recorded the findings of the Investigation Officer as further action dropped. After several years, this petition had been filed.

4. The same Petitioner already moved this Court in CrI.O.P.(MD).No. 4499 of 2020 and this Court vide order dated 28.02.2022 directed the Petitioner to approach the competent Court by way of protest petition.

5. The learned Additional Public Prosecutor also relied on the decision of this Court in CrI.O.P.(MD).No.4499 of 2020, wherein the learned Single Judge of this Court had directed the de-facto Complainant /Petitioner herein to approach the learned Judicial Magistrate concerned. After two years, he had filed this petition. Therefore, it is to be dismissed.



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6. On perusing the order passed in CrI.O.P.(MD).No.4499 of 2020 and the order passed by the learned Judicial Magistrate refer charge sheet 29 of 2020 dated 23.12.2020, on consideration of the same, it is found that the submission of the learned Counsel for the Petitioner cannot be entertained after this long time when he had knowledge of filing of the refer charge sheet by the Respondent Police before the Court concerned. As rightly pointed out by the learned Additional Public Prosecutor, three years from the filing of the final report, the Petitioner seeking further investigation cannot be entertained.

7. With the above observations, this Writ Petition is dismissed. No costs.

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



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