



W.P(MD)No.5309 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2024

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

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Francis,

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Cooperation, Food and Consumer
Protection Department,
Fort St. George,
Chennai - 600009.

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

3. The Inspector of Police,
All Women Police Station,
Palayamkottai,
Tirunelveli District.

4. The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli City.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd



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respondent to consider the petitioner's representation, dated 02.02.2024.

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For Petitioner : Mr.T.Lenin Kumar
For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)

ORDER

The learned Counsel appearing for the Petitioner submitted that the Petitioner is employed in the Electricity Board as a line man and that there had been a civil dispute regarding partition between the petitioner and his brothers. While so, the elder brother's wife and children are alleged to have attacked the Petitioner's wife and son. Based on which, the Petitioner's wife and son had given a complaint from their hospital bed, which was recorded by the Police Constable, who visited the Hospital on intimation. Subsequently, the Respondent Police had not registered any case. While so, it is the contention of the learned Counsel appearing for the Petitioner that based on the complaint given by the elder brother's wife and children, a case was registered in Crime No.73 of 2024 against the Petitioner's wife and his son for the offences under Section 448, 143, 294(b), 323 , 506(2) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.



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2.It is the contention of the learned Counsel appearing for the Petitioner that based on the complaint given by the elder brother's wife and his children, the Respondents 1 to 4 are attempting to detain the son of the petitioner under Act 14 of 1982. The representation of the Petitioner, dated 02.02.2024, was not considered. The Petitioner sent the representation to the Respondents 1 to 4 seeking to drop the proposal to detain the son of the petitioner under Act 14 of 1982. It is the contention of the learned Counsel appearing for the Petitioner that the son of the Petitioner was attacked brutally by the elder brother's wife and children. He is also a Diploma Engineer. While so at the instigation of the daughter-in-law of the elder brother, who is serving as Police Constable in Tamil Nadu Police, the Respondents 2 to 4 are attempting to convert a civil case into criminal case by arraying the son of the petitioner as accused for offence under Protection of Child from Sexual Offences Act. Therefore, he seeks Writ of Mandamus, directing the respondents to drop the proposal to detain the Petitioner's son under Goondas Act.

3.The learned Government Advocate (Crl.Side) on instructions of the Respondents 2 to 4 submitted that the Petitioner's son is facing not only one case. He is facing two cases under Protection of Child from



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Sexual Offences Act and one case under Section 354 IPC.

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4.The learned Counsel appearing for the Petitioner submitted that the case under Section 354 IPC in Crime No.7 of 2024, is with regard to the complaint given by the daughter of the elder brother, with an intention to frame the Petitioner's son in a criminal case.

5.Considering the submission of the learned Counsel appearing for the Petitioner and the learned Government Advocate (Crl.Side) that the Petitioner's son is facing criminal cases, the Respondent Police cannot be ordered to drop the proposal to detain the Petitioner's son. It is for the Petitioner to challenge if the detention order is passed.

6.The learned Government Advocate (Crl.Side) on instruction submitted that the Petitioner had only sent an online representation through Advocate only and also requested to direct the Petitioner to appear in person .

7.In the light of the submission made by the learned Counsel appearing for the Petitioner and the learned Government Advocate



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(Crl.Side), the Petitioner is directed to appear before the Commissioner of Police, Tirunelveli and give a representation as in person. With such representation, the Commissioner of Police may hold enquiry and pass orders.

8.With the above directions, this Writ Petition is dismissed. No costs.

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Index :Yes/No
Internet: Yes/No
LR



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To

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

3. The Inspector of Police,
All Women Police Station,
Palayamkottai,
Tirunelveli District.

4. The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli City.

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

LR

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