



W.P.(MD)No.12246 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 12.06.2024

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THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.12246 of 2024

B.Hemalatha

... Petitioner

versus

1. The District Collector,
Collectorate,
Trichy District.
2. The Superintendent of Police,
Office of the Superintendent of Police,
Trichy.
3. The Deputy Superintendent of Police,
Lalgudi Division,
Trichy District.
4. Alagammai

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondents 1 to 3 to nominate and replace a competent Police officer instead of 4th respondent to investigate on petitioner's complaint dated 27.02.204 in accordance with law by considering the petitioner's representation dated 11.05.2024 within a stipulated time fixed by this Court.



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For Petitioner : Mr.K.R.Manimaran
For R1 to R3 : Mr.T.Senthil Kumar,
Additional Public Prosecutor

ORDER

The petitioner has filed this petition for a Mandamus, directing the respondents 1 to 3 to nominate and replace a competent Police officer instead of 4th respondent, to investigate on her complaint dated 27.02.2024 in accordance with law, by considering her representation dated 11.05.2024 within a stipulated time.

2. The grievance of the petitioner is that one Sathish Raja, who is a Police Constable, had forcible sexual intercourse with her on 06.01.2024, for which, she lodged a complaint on 27.02.2024. But, the respondents Police have not acted upon her complaint and therefore, she made a representation dated 11.05.2024 to the respondents Police seeking to transfer her complaint to any other competent police officer.



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3. The learned Additional Public Prosecutor submits that the petitioner is aged about 32 years and the accused is also aged about 32 years. Both are the married persons, having separate family and children. He further submits that both the petitioner and the accused had illegal intimacy. The respondent police has enquired into the matter and also collected the call details report that there were frequent calls made by the petitioner with the accused. Considering the age of the victim and since it is a consensual sex, the respondents Police have not taken any action on the petitioner's complaint.

4. This Court considered the rival submissions made.

5. A Division Bench of this Court, in CrI.O.P.(MD)No.13681 of 2018 etc batches, dated 20.09.2018, has passed an order that the normal course of remedy on a failure or refusal to record the information is Section 156(3) Cr.P.C. after due compliance of Section 154(3) Cr.P.C. and as the remedy lies elsewhere, the informant cannot invoke Section 482 Cr.P.C.



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6. In view of the orders passed by the Division Bench of this Court reported in CrI.O.P.(MD)No.13681 of 2018 etc batches, dated 20.09.2018 and since the petitioner is having alternative remedy to file an application under Section 156(3) Cr.P.C, this Court is not inclined to entertain this petition.

7. Accordingly, this writ petition is dismissed with liberty to the petitioner to file an application under Section 156(3) Cr.P.C. before the concerned Judicial Magistrate, who in turn shall find out as to whether any offence is made out in the complaint of the petitioner and thereafter, refer the matter for investigation.

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Index : Yes / No.
Internet: Yes / No.
NCC : Yes / No.
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Madurai Bench of Madras High Court,
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B.PUGALENDHI, J.

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