



WP(MD)No.16319 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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Kaniraja

... Petitioner

Vs

1.The Superintendent of Police,
The Office of Superintendent of Police,
Theni District.

2.The State Rep. By,
The Inspector of Police,
Gandamanur Vilakku Police Station,
Theni District.

3.Kumaresan

4. Arulmurugan

5. Menaka

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 2nd Respondent to take appropriate action on petitioner's complaint dated 30.07.2022.

For Petitioner : Mr.C. Susikumar,

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



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ORDER

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The petitioner, the President of the Thirumalpuram Panchayat, has filed this writ petition seeking a Mandamus to the second respondent to take action on his complaint dated 30.07.2022.

2. The learned counsel appearing for the petitioner submits that the erstwhile Secretary of Thirumalpuram Panchayat, the third respondent herein, was an instrument in converting a Panchayat property as a layout and also sold the panchayat property, for which, a criminal complaint was lodged in the year 2013 and a case was registered against the Secretary of the Panchayat in Crime No.19 of 2013, on the file of the District Crime Branch, Theni for the offence punishable under Sections 468, 471 and 420 IPC. In that case, a final report was filed by the Police and the learned Judicial Magistrate, Theni, has found him guilty for the offence under Section 424 IPC and convicted him with a sentence of one year rigorous imprisonment. The trial Court has also suspended the sentence for a period of one month enabling the accused to prefer an appeal and get the regular suspension of sentence. The accused,



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taking undue advantage of the interim suspension of the sentence granted to him, has entered into the panchayat office on 30.07.2022 and has also set fire to the documents and thereby, the documents in the panchayat office were destroyed on 30.07.2022, for which, the petitioner has lodged a separate complaint against the Panchayat Secretary and the same was treated as a petition enquiry by the second respondent in CSR No.385 of 2022 dated 30.07.2022. Though the complaint would constitute a cognizable offence, the respondent Police has not acted upon the said complaint and therefore, the petitioner has filed this writ petition.

3. The learned Additional Public Prosecutor, who takes notice for the respondents 1 and 2, on instructions, submits that they are treating the complaint as a petition enquiry in CSR No.385 of 2022. He also fairly submits that the petition enquiry is pending from 30.07.2022.

4. Considering the submissions made on either side, this Court, by order dated 22.07.2024 has issued a direction as under:



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“5. The accused, who has created a record and sold away the panchayat property, was found guilty and convicted. However, during the interim suspension of sentence, he was capable of entering into the panchayat premises and destroyed the records in the panchayat office, for which, the petitioner has lodged a complaint in the year 2022. This nature of complaint is being treated as petition enquiry by the respondent Police that too for the past two years.

6. This Court is unable to accept the manner, in which, the complaint of the petitioner has been dealt with by the respondent Police. Therefore, this Court directs the Superintendent of Police, Theni District, to file a report as to the manner, in which, this nature of complaint has been treated as petition enquiry and that too for two years.”

5.This Court has also ordered notice through Court and privately to the respondents 3 to 5 and the petitioner has also filed his proof of service. The Superintendent of Police has filed a report as under:-

3. I submit that then the petitioner herein had preferred a complaint dated 30.07.2022, by alleging that, on 29.07.2022 at 5 p.m., while the petitioner was at Andipatti Panchayat



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Union Office, the Vice President Chellammal had called the petitioner and stated that the 3rd respondent along with the 4th and 5th respondents, had come to office and burning some documents behind the library building. By hearing the same, the petitioner had rushed to the spot and he had seen the respondents 3 to 5 burning the documents. When the petitioner questioned them, the 3rd respondent had stated that they are burning some old documents and left the place. Immediately the petitioner had lodged a complaint on 30.07.2022 for which a receipt was issued in C.S.R.No.385 of 2022 in Gandamanur Vilakku PS by Tr.D.Saravanan, Sub-Inspector of Police, Gandamanur Vilakku PS, Theni District.

4. I submit that there after the Sub-Inspector of Police, Gandamanur Vilakku Police Station, had addressed communications dated 01.08.2022 to the 1. District Development Office, Andipatti, 2. Assistant Director, Integrated District Rural Development Office, Theni, seeking information regarding documents that are said to have been burnt by the respondents 3 to 5 and a reminder dated 06.08.2022 was also sent, but there were no response. Owing to lack of response from these office, the CSR was closed as disposed on 31.08.2022.



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5.I submit that the petitioner submitted a fresh petition to initiate appropriate action on this matter pending before the Hon'ble Court and on 24.07.2024 the petitioner gave a fresh complaint at Gandamanur Vilakku Police Station. On receipt of the same FIR has been registered in Gandamanur Vilakku Police Station in Cr.No.147/24, u/s 435 IPC against respondents 3 to 5. Tmt. G.Brinda, Sub-Inspector of Police, Gandamanur Vilakku Police Station took up the investigation, recorded the statements of the petitioner and Tmt. Chellammal, Vice President of Thirumalapuram Panchayat. On 25.07.2024, Tmt.G. Brinda, Sub-Inspector of Police, Gandamanur Vilakku Police Station sent a communication to the Assistant Director, Andipatti Panchayat Union requesting details regarding the documents that are supposed to have been burnt by respondents 3 to 5 and awaiting response. Subsequently, on 26.07.2024, Sub-Inspector of Police arrested Respondent No.3 / Accused No. 1 Kumaresan and other accused will be arrested at the earliest.

6. It is submitted that though prima facie a cognizable offence was made out as per the complaint given by the petitioner on 30.07.2022, then Sub-Inspector of Police Tr. D.Saravanan, (presently working at Theni Police Station) failed to register the FIR and instead registered CSR and



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without making any proper enquiry, the same was disposed on 31.08.2022 without recording any reasons for dropping further action. Hence, a show-cause notice has been issued to Tr. D.Saravanan, Sub-Inspector of Police vide this office C.No.20577/F1/462/2024 dated 25.07.2024 and an explanation has been sought for from him so that an appropriate departmental disciplinary action may be initiated.

7. It is submitted that Gandamanur Vilakku PS Cr.No. 147/2024, u/s 435 IPC, will be investigated on proper lines and the final report shall be submitted before the Judicial Magistrate without delay.

6.This Court considered the rival submissions made and also perused the materials placed on record.

7.The petitioner, an elected Panchayat President has lodged a complaint that the Panchayat Secretary has destroyed certain documents of the Panchayat. This nature of complaint was treated by the respondent police as a petition enquiry from 30.07.2022. It appears that the Sub Inspector of Police one



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Saravanan has not dealt with the complaint in a proper manner, for which, the respondent has initiated disciplinary proceedings as against him on 25.07.2024. Even if this Saravanan or any other Officer, behaves in such a manner, it would ultimately affect the reputation of the Institution. The higher officials have to appraise the performance of their subordinates and fix responsibilities and duties on every officer in discharging their duty diligently. The officers, are appointed to discharge their duty and serve the public on behalf of the Government, and not to the individuals. The Superintendent of Police shall ensure that no such incidents do recur in future. The Superintendent of Police shall also monitor the investigation through some sincere officers and ensure that the final report is filed within a reasonable time.

8. With the above observations and directions, this writ petition is disposed of. No costs.

29.07.2024

Index : Yes/No
Internet : Yes/No
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Theni District.
- 2.The State Rep. By,
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Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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B.PUGALENDHI,J.

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Order made in
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