



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 19-12-2024

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.M.P.(MD).No.18182 of 2024 and
Rev.Aplw. (MD) S.R. No.65352 of 2024

Kalanthar Aasik Ahamed

.. Petitioner

Versus

1. The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram District.
2. The Additional Superintendent of Police,
Crime Against Women and Children,
Ramanathapuram District.
3. The Inspector of Police,
Thondi Police Station,
Ramanathapuram District.
4. The Inspector of Police,
C.B.C.I.D,
Ramanathapuram District.

.. Respondents

The Petition is filed to condone the delay of 153 days to file the Review Petition.



For Petitioner : Mr. Henri Patrick Tiphange

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

Mr.V.Meganathan, Government Advocate.

Mr. P.Kottaichamy
Government Advocate (Criminal Side)

ORDER

This petition has been filed to condone the delay of 153 days in filing the Review Petition.

2. Learned Counsel for the Review Petitioner, Thiru. Henri Patrick Tiphange submitted that this Court had passed order in Crl.O.P.No.17008 of 2022, dated 25.11.2022 in which it is held as follows:

“13. The offences alleged by the Petitioner against the Police Officials are found acceptable in the light of the remand recorded by the learned Judicial Magistrate, Thiruvadanai.

14. As per the Petitioner's arguments, the Petitioner was produced before the learned Judicial Magistrate, Thiruvadanai. The learned Judicial Magistrate, Thiruvadanai had recorded that the Petitioner herein as Accused No.5 had stated that he had some dispute with the police officials due to his professional work. Therefore, he had wrongly arrayed in this case and the Accused were remanded by the learned Judicial Magistrate, Thiruvadanai. After release on bail, the Petitioner had filed Crl.M.P.No.2709 of 2007. The Police Officials had conducted the enquiry and closed it as false case. Therefore, the Petitioner



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had approached this Court directing to register FIR.

15. In the light of the above, the Respondents 1 and 2 are directed to hold enquiry and register a case against the Police Officials, if cognizable offence is made out, as per the reported ruling of the Hon'ble Supreme Court in the case of Lalita Kumari -vs- Government of Uttar Pradesh and Others [(2014) 2 SCC 1].

In the result, this Criminal Original Petition is disposed of. The Petitioners can approach this Court, if he is aggrieved by the inaction on the part of the Respondents 1 and 2 even after directions issued by this Court.”

3. Subsequent to this Order, the Petitioner in CrI.O.P.No.17008 of 2022, Kalanthar Aasik Ahamed had filed W.P.(M.D) No.2216 of 2024 wherein also, the Respondents were the same as in the CrI.O.P.No.17008 of 2022. The Writ Petition was filed seeking the entire records pertaining to the records of the 2nd Respondent in W.P.(M.D) No.2216 of 2024, dated 03.12.2023 and set aside the same and consequently directing the 4th Respondent, The Inspector of Police, CBCID, Ramanathapuram District to proceed with proper investigation on the petitioner's complaint dated 03.08.2020. After hearing the learned Counsel for the Writ Petitioner in W.P. (M.D) No. 2216 of 2024, Thiru.R.Anand and the Additional Public Prosecutor Mr.T.Senthil Kumar, Writ Petition was dismissed by detailed order observing in para 9 of the order which reads as under:



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“The Petitioner submits that he is a practising lawyer. In the course of his professional contact, he had filed complaints, writ petitions against the public Officials, particularly, the Police Officials, which enraged the Police Officers. Therefore, in this case, the Deputy Superintendent of Police had attacked the Petitioner along with policemen. If what had been stated by the Petitioner is true, what prevented him from filing the private complaint stating the same in detail. The omission and commission of the acts of public servant, who is expected to protect the life and limb and properties of the common citizen, the contents of the complaint to attract human rights violation cannot be expected to be registered by the Police. Therefore, the Petitioner has to approach the Court of the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District for human rights violation. The repeated behaviour of the Petitioner seeking indulgence of this Court for registration of the FIR against the Higher Officials by the Field Officers, Inspector of Police or Sub Inspector of Police, cannot at all be accepted.

In the light of the above, this Writ Petition is dismissed. No costs”.

4. This Review Petition has been filed in W.M.P(M.D) No.18182 of 2024 seeking to review the order in W.P(M.D).No.2216 of 2024, dated 05.03.2024. In the Review application, condone delay petition is filed to condone the delay of 153 days. On earlier occasion, Mr. Henri Patrick Tiphange appearing for the Review Petitioner would submit that this Court in the Writ Petition had observed that the Petitioner had not reported injury caused on him to the learned Judicial Magistrate, who remanded him. Therefore, the learned Counsel Thiru. Henri Patrick Tiphange appearing for



the Review Petitioner in the Review Petition invited the attention of this Court to the remand report order where the injuries were noted. Therefore, he seeks to review the order passed in W.P(M.D).No.2216 of 2024, dated 05.03.2024.

5. When the Petition to condone the delay was heard, the learned Counsel Mr.Henri Patrick Tiphange submitted that the Petitioner Kalander Aasik Ahamed was unable to file review petition within one month from the date of receipt of copy of the order. At that time, the learned Government Advocate Thiru P.Kottachamy appeared through virtual mode objected to the condonation of delay petition and sought time to file detailed counter. Therefore, the case was adjourned to 18.12.2024.

6. On 18.12.2024, there was no sitting. Therefore, the case was heard today, 19.12.2024.

7. Today, 19.12.2024, the learned Counsel for the Review Petitioner Mr.Henri Patrick Tiphange appeared through virtual mode and submitted that in the order passed in W.P(M.D).No.2216 of 2024, dated 05.03.2024, there was observation by this Court that the Petitioner had not



pointed out the injuries caused on him by the Police Officials to the learned Judicial Magistrate who remanded, on that ground, the Writ Petition had been dismissed. Therefore, the learned Counsel for the Review Petitioner Henri Patrick Tiphange wanted to review that particular portion of the order regarding the observation against the Petitioner in the W.P(M.D).No.2216 of 2024, dated 05.03.2024.

8. The learned Additional Public Prosecutor Thiru.T.Senthil Kumar appeared through virtual mode objected to the condonation of delay petition as well as the Review Petition. It is his submission that criminal writs are different from the civil writs. When the criminal writs are disposed of and criminal Court become functus officio. Therefore, the only remedy available to the aggrieved petitioner is to move the Hon'ble Supreme Court and he cannot seek review of the order. The learned Additional Public Prosecutor Thiru.T.Senthil Kumar had relied on the ruling of the Hon'ble Supreme Court in the case of *Nazma -vs- Javed Alias Anjum* reported in **(2013) 1 Supreme Court Cases 376**, in which the Hon'ble Supreme Court had deprecated the High Court's practice of encouraging petitions moved by the parties which is unacceptable in law. Therefore, it is his contention that this Court has become functus officio. It cannot entertain review petition in criminal writs.



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9. Also, he would submit that the Petitioner in Review Petition had filed petition to condone the delay. He had filed W.P.(MD).No. 1028 and 1782 of 2021 and 12669 and 14121 of 2020 which were disposed of by common order dated 10.04.2024 by Justice. R.Hemalatha by imposing cost on the Petitioner and dismissing all the four Writ Petitions and imposing cost of Rs.50,000/- to each of the Police Officials by the Petitioner.

10. It is the contention of the learned Additional Public Prosecutor against the order in W.P.(MD).No.1028 and 1782 of 2021 and 12669 and 14121 of 2020, the Petitioner had moved W.A.(MD).No.1262 to 1265 of 2024. The Review Petition is not at all maintainable as per the observation of the Hon'ble Supreme Court and the remedy available to the Petitioner is to approach the Hon'ble Supreme Court as per the reported decision in the case of *Nazma -vs- Javed Alias Anjum* reported in **(2013) 1 Supreme Court Cases 376**.

11. Today, 19.12.2024, the learned Additional Public Prosecutor also filed counter vehemently objecting to the claim of the Petitioner that he was bedridden with particulars regarding his presence in various fora including Court. Therefore, contending that the claim of bedridden is not true.



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12. After hearing both the parties, in the light of the vehement objection by the learned Additional Public Prosecutor, Thiru.T.Senthil Kumar that criminal writs stand apart from Civil writs. Therefore, there cannot be a review petition. If at all, aggrieved party who have suffered due to the order has to challenge the same only before the Hon'ble Supreme Court is found acceptable in the light of the reported decision in the case of Nazma -vs- Javed Alias Anjum reported in (2013) 1 Supreme Court Cases 376. Therefore, even though the Court has sympathy for the Petitioner and his Counsel, this Court is unable to come to the rescue of the Petitioner. Therefore, the petition to condone the delay is dismissed. It will not help the Petitioner as per the reported decision of the Hon'ble Supreme Court. Therefore, the Petitioner is advised to move the Hon'ble Supreme Court regarding the grievances pointed out by the Petitioner.

In the result, this Writ Miscellaneous Petition is dismissed. There shall be no order as to costs.

19.12.2024

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