



W.P.(MD)No.26668 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.(MD)No.26668 of 2024

L.N. Nithyanantham

.. Petitioner

Vs

**1. The Superintendent of Police
Pudukottai District
Pudukottai.**

**2. The Inspector of Police
Ganesh Nagar Police Station
Pudukottai**

3. Dr.S.Ramadoss

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent to take appropriate criminal action against the third respondent on the basis of the Legal Opinion dated 01.04.2024 obtained by the 2nd respondent Police from the Public Prosecutor, Pudukkottai vide communication of the Public Information Officer (ADSP) Head Quarters, Pudukkottai, dated 05.09.2024 to the petitioner within a period to be specified by this Court.



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For Petitioners : Mr.P.Chandrasekaran
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

This Writ Petition has been filed to direct the second respondent to take appropriate criminal action against the third respondent on the basis of the Legal Opinion dated 01.04.2024 obtained by the 2nd respondent Police from the Public Prosecutor, Pudukkottai vide communication of the Public Information Officer (ADSP) Head Quarters, Pudukkottai, dated 05.09.2024 to the petitioner within a period to be specified by this Court.

2. The primary contention of the learned counsel appearing for the petitioner is that the petitioner had earlier filed a writ petition before this Court in W.P(MD) No.16132 of 2024 seeking to provide adequate police protection to the petitioner and his mother, pursuant to the representations given by the petitioner dated 12.03.2024 and 11.06.2024. The contention of the petitioner therein is that the third respondent was threatening the petitioner, his mother and attempted to kill them Therefore he lodged complaint and the First Information Report has been



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registered in Crime No. 381 of 2023 against the third respondent.

Thereafter he has been continuously threatening the petitioner and his mother. Hence he lodged complaints on 12.03.2024 and 11.06.2024 . In that petition the learned Additional Public Prosecutor, on instructions, from the respondent police submitted that the representations dated 12.03.2024 and 11.06.2024 was sent only through post and the petitioner had not appeared before the respondent police for enquiry. Further the complaint of the petitioner dated 11.06.2024 is treated as petition enquiry in current paper and now pending before the Ganesh Nagar Police Station, Pudukottai. Since the petitioner had not appeared for enquiry, the respondent police are not able to conclude the enquiry. Further the learned counsel appearing for the petitioner refuted the same and submitted that the petitioner was not served with any summons calling for enquiry. On such submissions of the learned Additional Public Prosecutor this Court in its order dated 18.07.2024 had closed the W.P(MD) No.16132 of 2024 giving liberty to the petitioner to approach the respondent police for redressal of his grievance and the respondent police shall find out whether the petitioner has any real threat and to take appropriate action. Against this order the petitioner preferred an appeal



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before the Hon'ble Apex Court in SLP No.11395 of 2024 and the same was not entertained.

3. The petitioner thereafter had applied through Right to Information Act on 07.08.2024 with a query that what is the stage of petitioner's complaint dated 12.03.2024. The reply received was that the complaint was forwarded to legal advisor who had given an opinion on 01.04.2024 which has been suppressed at the time of proceedings in W.P(MD)No.16132 of 2024. Now the present petition has been filed to take action against the third respondent on the basis of the legal opinion dated 01.04.2024.

4. The learned Additional Public Prosecution opposed the contention of the petitioner stating that there have been long going legal battle between the petitioner and the third respondent. There has been several proceedings between them. Earlier the petitioner has filed CrI.O.P.(MD)No.1176 of 2021 seeking for direction for enforcing the pre-drafted compromise deed dated 02.06.2020 and this Court by an order dated 30.03.2021 quashed the compromise deed dated 02.06.2020



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and directed the Director General of Police to take departmental proceedings against the Inspector of Police, District Crime Branch, Pudukottai and further gave a direction to not to harass the petitioner on the basis of compromise deed dated 02.06.2020. Against which the third respondent herein who was also party in that proceedings has preferred an SLP No.8637 of 2021 before the Hon'ble Apex Court and the Hon'ble Apex Court by an order dated 10.12.2021 not entertained the appeal. In the meanwhile proceedings initiated by the third respondent against the petitioner herein in STC No. 222 of 2022 under Section 138 of the Negotiable Instruments Act. The petitioner herein has filed quash application before this Court in CrI.O.P(MD) No. 21437 of 2022 and this Court by an order dated 28.06.2023 allowed the petition and quashing the STC No.222 of 2022. Aggrieved against the same, the third respondent herein had preferred SLP before the Hon'ble Apex Court and the Hon'ble Apex Court in CrI.A. No.1435 dated 07.03.2024 had set aside the quashing of 138 of the Negotiable Instruments Act case and directed to proceed with the trial. There has been cases and counter complaint being made against the first petitioner and third respondent. As regards the petitioner's prayer in the writ petition is admitted that the



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legal opinion which has been obtained is matter of enquiry and at this stage it cannot be revealed and the petitioner seeking direction to act upon the legal opinion dated 01.04.2024 against the third respondent is premature. The respondent police is taking legal opinion into consideration conducting enquiry and depending upon the enquiry appropriate action would be taken.

5. It is seen that the respondent police in W.P(MD) No.16132 of 2024 had represented that two representations dated 12.03.2024 and 11.06.2024 were received through post and now the complaint of the petitioner dated 11.06.2024 is treated as petition enquiry in current paper before the Inspector of Police, Ganesh Nagar Police Station, Pudukottai District . The learned counsel for the petitioner admitted that complaint dated 11.06.2024 is nothing but reproduction of complaint dated 12.03.2024. In view of the same the opinion dated 01.04.2024 would be an opinion for 11.06.2024 also.

6. In view of the same the respondent police treating as current paper and conducting enquiry and the same to be considered and



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appropriate decision should be taken within a period of eight weeks from the date of receipt of this court. The outcome of the same to be informed to the learned counsel appearing for the petitioner.

7. With the above direction, the Writ Petition stands disposed of.

No costs.

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Index: Yes/No

Internet : Yes/No

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To

1. The Superintendent of Police
Pudukottai District
Pudukottai.
2. The Inspector of Police
Ganesh Nagar Police Station
Pudukottai
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.



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M.NIRMAL KUMAR, J.

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