



CRL OP(MD).Nos.21149 of 2023 & 3489 of 2024
& WP(MD)No.2601 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 31.07.2024

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THE HON'BLE MR.JUSTICE B.PUGALENDHI

CRL.O.P(MD)Nos.21149 of 2023 & 3489 of 2024

and

W.P.(MD)No.2601 of 2024

and CrI.MP(MD)No.16555 of 2023

and WMP(MD)Nos.2620 & 2621 of 2024

CRL.O.P (MD) No.21149 of 2023

Kalki.Ramakrishnan @ Ramakrishnan

... Petitioner

Vs

1. The Inspector of Police,
All Women Police Station-Thiruverambur,
Trichy District.
(Crime No.11/2020)

2. Nirmala

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C,
praying to call for the records of the impugned FIR dated 27.05.2020 in
Crime No.11 of 2020 on the file of 1st respondent police.

For Petitioner : Mr.Jeya Mohan

For R1 : Mr.M.Sakthikumar
Government Advocate (Crl. Side)

For R5 : M/S.Seeni Syed Amma



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WEB C **CRL.O.P (MD) No.3489 of 2024**

S.Nirmala

... Petitioner

Vs

1. The Deputy Superintendent of Police,
O/o. the Deputy Superintendent of Police,
Trichy District.

2. The Inspector of Police,
O/o. All Women Police Station,
Thiruverumbur,
Trichy District.
(Crime No.11 of 2020)

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C,
praying to direct the first respondent to file a final report in Cr.No.11 of
2020 on the file of the second respondent dated 27.05.2020 within the
time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy, Senior Counsel
for Mr.S.Rajasekar

For R-1 & R-2 : Mr.M.Sakthikumar
Government Advocate (Crl. Side)



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WEB CO **W.P (MD)No.2601 of 2024**

Ramakrishnan .K

... Petitioner

Vs

1. The Director,
National Commission For Scheduled Caste,
Tamilnadu State Office,
Shastri Bhavan,
2nd Floor, Block - 5,
Chennai - 600 006.

2. The Superintendent of Police,
Trichy District,
Trichy.

3. The Deputy Superintendent of Police,
Thiruverumbur Sub Division,
Trichy District.

4. The Inspector of Police,
All Women Police Station,
Thiruverumbur,
Trichy District.
(Crime No. 11 of 2020)

5. Nirmala. S

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records of the impugned order F.No.1/485/2018 REP on the file of the 1st



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respondent dated 30.01.2024 and quash the same.

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For Petitioner : Mr.Jeya Mohan

For R1 to R4 : Mr.M.Sakthikumar
Government Advocate (Crl. Side)

For R5 : Mr.T.Seeni Syed Amma

COMMON ORDER

The defacto complainant in Crime No.11 of 2020 has filed the application in Crl.O.P(MD) No. 3489 of 2024 seeking a direction to the respondent police to file a final report in Crime No. 11 of 2020 within a stipulated time.

2.The accused No. 1 in the same crime number has filed another application to quash the proceedings in Crime No. 11 of 2020 as against him in Crl.O.P(MD) No.21149 of 2023.



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3.The accused No.1 has also filed another writ petition in WP (MD) No.2601 of 2024 challenging the proceedings of the Chairman of SC/ST Commission, wherein, a direction was issued to the respondent police to arrest the accused No. 1.

4.Since all these applications are pertaining to Crime No. 11 of 2020, which is pending on the file of Deputy Superintendent of Police, Thiruverumbur, all these applications were taken up and heard together.

5.The defacto complainant in Cr.No.11 of 2020 is an Assistant Supervisor working in Urumu Dhanalakshmi College, Kattur, Trichy. The petitioner in Crl.O.P(MD) No. 21149 of 2023 and WP (MD) No. 2601 of 2024 is the accused No. 1 and he is also the Secretary of the College Committee, which administered the said College.

6.According to the complainant, during the year 2017, a case was registered before the Erode South Police Station in Crime No. 507 of

5/23



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2017 for the offences under Sections 294(b) r/w 3(1)(x) SC/ST Act against one Arunadevi and Kannan. After investigation, the police has filed a negative report in the said case. On the protest petition filed by the defacto complainant/Nirmala, the learned 1st Additional District Judge, Trichy has taken the complaint as a private complaint (Spl.S.C.No.10 of 2019) under Section 200 Cr.P.C. The accused persons have intimidated the defacto complainant to withdraw the case in Spl.SC.No.10 of 2019, which was filed before the learned Additional District Judge Trichy. Hence, the present case in Cr.No.11 of 2020.

7.The grievance of the defacto complainant is that though the case has been registered in the year 2020, the investigation is still pending.

8.According to the first accused, he is 68 years old and he is the Secretary and he has nothing to do with the case, which is pending on the file of Additional District Judge Trichy. In fact, the complaint was originally investigated by the police and closed as 'mistake of fact' and



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only on the protest petition filed by the defacto complainant, It was taken on file as a private complaint. In fact, the private complaint was also withdrawn by the defacto complainant on 29.11.2021, after one year of the registration of Cr.No.11 of 2020. There is no specific averment as against the first accused. However, the respondent police has mechanically registered a case against the first accused.

9.The learned Additional Public Prosecutor submitted that the case in Cr.No.11 of 2020 was originally registered by All Women Police Station, Thiruverumbur for the offences under Sections 294(b), 354(A), 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. Later, it has been altered by adding offence under Sections 294(b), 354(A), 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act r/w 3(1)(w)(2) and 3(2)(va) of POA SC/ST Act. Thereafter, investigation has been transferred to Inspector of Police, Thiruverumbur and the investigation is now with the Deputy Superintendent of Police, Thiruverumbur Police Station. The second accused is absconding and investigation agency is not in a position to get



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the Community Certificate of the second accused. Therefore, a request has been made by the Deputy Superintendent of Police to the Tahsildar, Thiruverumbur, Trichy District, vide Proceedings No. Na.Ka.No. 524/Ka/Thu.Ka(Thi) 2023, dated 22.11.2023 to ascertain the community of the second accused. Since the second accused is a resident of Namakkal, the same was forwarded to the Tahsildar, Namakkal District and he has also sent a reply that the mentioned person is not available in the locality. Therefore, there is a delay in filing the final report.

10. According to the learned Additional Public Prosecutor, the investigation is almost completed and they are awaiting for the Community Certificate of A2.

11. The learned Senior counsel, appearing for the de facto complainant in Crl.O.P(MD) No.3489 of 2024, submitted that the case registered in the year 2020 is pending without any progress and therefore, necessary direction has to be issued to the investigation officer



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to file the final report.

12.This Court considered the rival submissions made by the parties and also perused the materials placed on record.

Crl.O.P(MD) No.21149 of 2023 & 3489 of 2024:

13.The Respondent Police claims that investigation is almost completed in Crime No.11 of 2020 and they are in need of the Community Certificate of A2 to file the final report. The case has been registered in the year 2020 and still pending.

14.The Investigation Officer has also filed a report before this Court that during the course of inquiry, he has summoned the Professors in the college and recorded their statement and that none of the witnesses have supported the case of the prosecution. He further submitted that the defacto complainant, who lodged the complaint before the Erode South



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Police Station in Crime No. 507 of 2017 has also subsequently withdrawn the private complaint, which is pending subsequent to the protest petition.

15. In view of the above position, it is not known as to whether the investigation agency is going to file a final report as against the first accused or going to file a negative report. Therefore, this Court is not inclined to quash the petition against the first accused at this stage. In the event, if the final report is filed as against the first accused, the first accused is at liberty to challenge the same, if he is having any grounds. The Deputy Superintendent of Police is directed to file either final report or closure report within a period of three months from the date of receipt of copy of this order.

16. Accordingly, these Criminal Original Petitions are disposed of. Consequently, connected miscellaneous petition is closed.

W.P(MD) No.2601 of 2024:

17. In so far as the writ petition in WP(MD) No.2601 of 2024 is concerned, it appears that the Chairman of SC/ST Commission has



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issued a direction to the investigation officer to apprehend the first accused.

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18. The SC/ST Commission has been constituted under Article 338 of the Constitution of India and the object for which, the Commission was established, was extracted hereunder:

“335. The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State: 1 [Provided that nothing in this article shall prevent in making of any provision in favour of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State.]”



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19. Separate rules have been framed on the proceedings of the National Commission for the Scheduled Casts and the duties of the Commission has been laid down in Articles 338(5) of Constitution of India, as under:

“(5) It shall be the duty of the Commission—

*(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes 3 *** under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;*

*(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes 1 ***;*

*(c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes 1 *** and to evaluate the progress of their development under the Union and any State;*

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those



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safeguards;

*(e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes I ***; and*

*(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes I *** as the President may, subject to the provisions of any law made by Parliament, by rule specify”*

20.The learned counsel for the petitioner in W.P(MD) No.2601 of 2024 has relied upon the decision of High Court of Kerala in W.P(C) No. 21659 of 2017, wherein, paragraph No.7 is extracted hereunder:

“7. The first respondent Commission constituted under Section 3 of the Kerala State Commission for the Scheduled Castes and the Scheduled Tribes Act, 2007 (for short 'the Act'), for exercising the powers and performing the functions



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assigned to it under the Act, is undoubtedly a creature of the statute. Therefore the Commission cannot exercise any function or power other than what is conferred under the Act. Section 9 of the Act deals with the functions of the Commission. The relevant portion of Section 9 is extracted below:-

“9. Functions of the Commission.- The Commission shall have the following functions, namely:-

“(a) to investigate and examine the working of various safeguards provided in the Constitution of India or under any other law for the time being in force or under any order of the Government for the welfare and protection of the Scheduled Castes and the Scheduled Tribes in Kerala.

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes and the Scheduled Tribes in Kerala and to take up such matters with the appropriate authorities.”

Under Section 9(b), the Commission is empowered to enquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes and the Scheduled Tribes in Kerala and to take up such matters with the appropriate authorities. The deprivation of rights and safeguards in Section 9(a) cannot be equated with the term 'atrocities' in the Prevention of Atrocities Act. As can be understood from a reading of Section 9(a), the rights and



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safeguards mentioned in Section 9(b) are the rights and safeguards provided in the Constitution of India or under any law or order issued by the Government, for the welfare of the Scheduled Castes and Scheduled Tribes. On the other hand, the Prevention of Atrocities Act seek to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto. The Commission cannot transgress into the field covered by the Prevention of Atrocities Act and direct investigation to be conducted into the offences coming under that Act. Even otherwise, on a plain reading of Section 9(b), it is clear that after enquiring into specific complaints with respect to the deprivation of rights and safeguards, the Commission can only take up such matters with the appropriate authority. Under no stretch of imagination can power to take up the matter with the appropriate authority be understood to have clothed the Commission with the power to interfere with a criminal investigation. Hence, I have no hesitation to hold that the Commission did not have the authority to issue Ext.P4.”

21.The learned Senior Counsel appearing for the defacto complainant by referring clause 7.5 of the National Commission for



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Scheduled Castes Rule submitted that whenever the Commission receives any information about any incident of atrocities against the person belonging to Scheduled Caste, the Commission is expected to monitor the law enforcing and administrative machinery of the State, by collecting the details of the incident and the action taken by the District Administration. The Commission is also expected to conduct an enquiry/investigation. After completing the enquiry, the Commission may also recommend to file an FIR against the accused.

22.This Court considered the rival submissions made.

23.The order impugned in this writ petition is the direction issued by the Commission, directing the respondent police to arrest the accused in Crime No.11 of 2020, which is pending on the file of the All Women Police Station, Thiruverambur, Trichy District. The Commission constituted under Article 338 of the Constitution of India, has also been entrusted with certain duties to investigate and monitor all the matters



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related to atrocities of the Scheduled Caste people and to provide safeguards provided under the Constitution. The nature of investigation and inquiry which needs to be contemplated by the Commission is defined in Rule 7.0 and Rule 7.5 of the National Commission For Scheduled Castes, Rule, which states that after the enquiry or investigation, the Commission in the event, finds that there is some atrocities against the Scheduled Caste, shall recommend to file the FIR. Therefore, the role of the Commission in conducting the investigation or the enquiry is only to find out the correctness of the complaint and to recommend for registering the FIR. The registration of the FIR is only with the law enforcing agency in the State. In this case, the law enforcing agency has already registered the FIR. The Commission is also expected to monitor the case and the scope of monitoring is also defined under Rule 7.5.2 and 7.5.6 and the same is extracted as under:

7.5.2 The Commission ensures the following while by monitoring and issuing instruction to the concerned authorities

(i) Whether the scene of occurrence of the crime has been visited immediately by Collector and Supdt. of Police of the district on receipt of



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information.

(ii) Whether proper FIR is registered in local Police Station

(iii) Whether names of all the persons involved/cited by the complainant has been included in the FIR.

(iv) Whether investigation has been taken up by a Senior Police Officer as per provisions of the SCs & STs (POA) Act, 1989

(v) Whether culprits has been apprehended and booked without loss of time.

(vi) Whether proper charge sheet has been filed mentioning the relevant sections of IPC together with the PCR Act, 1955 and SCs & STs (POA) Act, 1989 in Court.

(vii) Whether the cases are tried by the Special Courts.

(viii) Whether special Public Prosecutors are appointed to handle these cases.

(ix) Whether Police assists the courts in bringing forward witnesses and see that the culprits are suitably punished by the courts.

7.5.6 When any offence as is described as an atrocity in the relevant acts for the time being in force, is committed in the view or presence of the Commission or has been found to have been taken



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cognizance by the Commission, in pursuance of the enquiry/investigation conducted by it in the discharge of its functions, the Commission may, after recording the facts constituting the offence, forward the case to a Magistrate having jurisdiction to try the same.

24. The Commission shall also monitor whether the victim has been provided with suitable medical assistance.

25. As per the guidelines, the Commission is not entitled to dictate the manner in which the investigation has to be conducted. This direction issued by the Commission would certainly influence the Investigation Agency to conduct the investigation in such a manner as against the accused. The investigation is the prerogative of the investigation Agency. Even the Courts are not expected to interfere with the investigation. Arrest is the process of investigation, which has to be decided, whether it is required for the particular case or not, only by the investigation agency and the Commission is not expected to issue the



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direction in such a manner. Therefore, the impugned order of the Commission is set aside.

26. According, this Writ Petition is allowed. No costs.
Consequently, connected miscellaneous petitions are closed.

31.07.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes
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To

1. The Director,
National Commission For Scheduled Caste,
Tamilnadu State Office,
Shastri Bhavan,
2nd Floor, Block - 5,
Chennai - 600 006.

2. The Superintendent of Police,
Trichy District,
Trichy.

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3. The Deputy Superintendent of Police,
Thiruverumbur Sub Division,
Trichy District.

4. The Inspector of Police,
All Women Police Station,
Thiruverumbur,
Trichy District.

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



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B.PUGALENDHI,J

jbr

Order made in
CRL.O.P(MD)Nos.21149 of 2023 & 3489 of 2024
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