

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2020

CORAM

**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM**

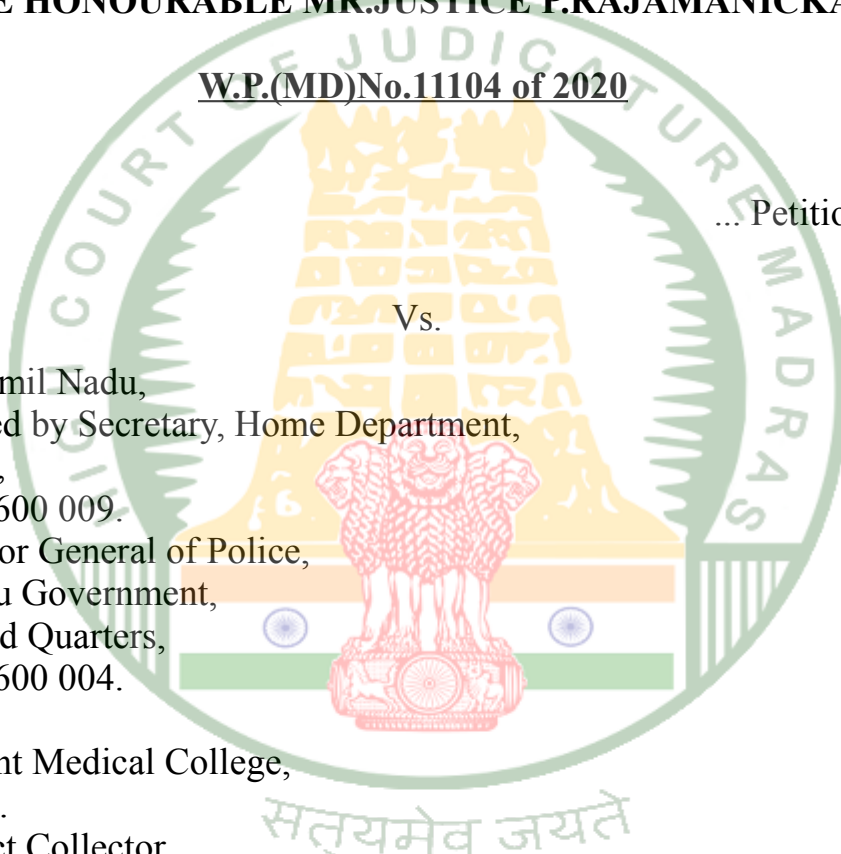
W.P.(MD)No.11104 of 2020

R.Rathinam

... Petitioner

Vs.

- 1.State of Tamil Nadu,
Represented by Secretary, Home Department,
Secretariat,
Chennai - 600 009.
- 2.The Director General of Police,
Tamil Nadu Government,
Police Head Quarters,
Chennai - 600 004.
- 3.The Dean,
Government Medical College,
Pudukottai.
- 4.The District Collector,
Sivagangai District,
Sivagangai.
- 5.The Superintendent of Police,
Sivagangai District,
Sivagangai.
- 6.The Inspector of Police,
Ulagambatti Police Station,
Thiruppathur Taluk,
Sivagangai District.
- 7.A.Sethuraj,
Sub-Inspector of Police,



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(Transferred to Armed Police from
Poolankurichi Police Station),
Sivagangai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, (a) directing the first respondent to pay fair and just compensation for the mental agony and sufferings experienced by Mr.Senthil S/o. Singaram and Mrs.Priyadharshini W/o. Senthil, Poolankurichi Village, Thiruppathur Taluk, Sivagangai District due to the failure of the officials such as the Home Secretary, District Collector of Sivagangai District, the Superintendent of Police, Sivagangai District and the Sub-Inspector of Police, Poolankurichi Police Station even after the efforts were made by former learned Judge A.Selvam of the Hon'ble High Court of Madras and (b) directing the respondents No.2 to 5 to ensure that the investigation in Crime No.84 of 2020 pending on the file of Pollankurichi Police Station is handed over to the competent officer of the District Crime Branch.

For Petitioner : Mr.P.Rathinam (Party-in-person)

For Respondents : Mr.K.Chellapandian
Additional Advocate General
Assisted by Mr.M.Muthugeethaiyan
Special Government Pleader

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ORDER

[Order of the Court was made by **M.SATHYANARAYANAN, J.**]

The petitioner/party-in-person is a practising advocate of Madurai Bench of Madras High Court Bar and came forward to file this Writ Petition as

a Public Interest Litigation, stating among other things that one Senthil S/o. Singaram has been severely beaten by one Prakash S/o. Palanichamy and three others at about 6.00 p.m. on 01.08.2020 and the altercation took place on account of the rash and negligent driving on the part of Prakash @ Jeya Prakash, for which a case has been registered in Crime No.84 of 2020 for the alleged commission of offences under Sections 341, 294(b) and 323 I.P.C. and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 and the mother of Prakash @ Jeyaprakash, who was arrayed as A1, has also lodged a complaint, based on which, a case has been registered in Crime No.84 of 2020 against Senthil and others for the alleged commission of offences under Sections 147, 294(b), 323 and Section 4 of the Women Harassment Act, 2002.

2.The petitioner/party-in-person would submit that though in the altercation one of the hands of Senthil got fractured, no step has been taken to arrest the concerned person by the concerned Sub-Inspector of Police, Poolankurichi Police Station and in this regard Hon'ble Mr. Justice A.Selvam along with Senthil and his family members, conducted Dharna in front of the Police Station, which was telecasted in the visual media and put in the domain of social media platform and thereafter only, some action has been taken to transfer the said official.

3.The primordial submission made by the petitioner/party-in-person is that every victim of the crime do not have the benefit of getting support from a former Judge of this Court and therefore, a monetary mechanism has to be put in place as to the discharge of duty of the concerned Station House Officers while receiving the complaint, which has been taken cognizance of offences, especially serious offences and therefore, prays for appropriate orders.

4.The learned counsel for the petitioner/party-in-person placed reliance on the judgment of the Hon'ble Supreme Court reported in **(1991) 3 SCC 482 [Supreme Court Legal Aid Committee v. State of Bihar and Others]**.

5.Mr.K.Chellapandian, learned Additional Advocate General, assisted by Mr.M.Muthugeethayan, learned Special Government Pleader, has drawn the attention of this Court to the status report of the Inspector of Police, Ulagambatti Circle as well as the typed set of documents filed in support of the status report and would submit that on receipt of complaint given by Senthil, the Sub-Inspector of Police attached to Poolankurichi Police Station has registered a case against Prakash @ Jeyaprakash for the commission of offences under Sections 341, 294(b), 323 of I.P.C. and Section 4 of Women Harassment Act, 2002 in Crime No.84 of 2020 on 01.08.2020 at about 19.30 p.m. and a counter

complaint was also given by the mother of Prakash @ Jeya Prakash on 02.08.2020 at about 10.30 a.m., based on which, a case in Crime No.85 of 2020 was registered for the commission of offences under Sections 147, 294(b), 323 of I.P.C. and Section 4 of Women Harassment Act, 2002.

6.It is stated in the status report that a former Judge of this Court, namely, Hon'ble Mr. Justice A.Selvam also complained about the inept attitude of Mr.Sethuraj, Sub-Inspector of Police, Poolankurichi Police Station and immediately he was transferred from the said Police Station and posted in Armed Reserved Police on 22.08.2020 and the first accused Prakash @ Jeya Prakash was arrested on 25.08.2020 and though the anticipatory bail petition filed by Prakash @ Jeya Prakash was dismissed, his mother and grand-mother were granted anticipatory bail on 26.08.2020 by the learned District and Sessions Judge, Sivagangai.

7.It is also stated in the status report that Mr.Sadhu Ramesh, Inspector of Police has been appointed as Investigation Officer and he continued the investigation and after completion of the investigation, he filed charge sheet on 18.09.2020 before the Court of Judicial Magistrate, Thirupathur charging A1- Prakash @ Jeya Prakash, A3 - Machakannu and A4 - Panchu @ Panchavarnam

for the commission of the offences under Sections 341, 294(b), 326 and 506(ii) I.P.C. and Section 4 of Women Harassment Act, 2002 and the charge sheet is to be taken on file and in respect of the juvenile accused/A2 also final report was filed before the jurisdictional Juvenile Justice Board. Insofar as the counter complaint given by the mother of Prakash @ Jeya Prakash, the case after investigation was referred as 'mistake of fact.'

8.The learned Additional Advocate General would submit that in the light of the status report and the supporting typed set of documents, this Court may pass appropriate order.

9.This Court has carefully considered the rival submissions and perused the materials available on record.

10.The Station House Officers, once they registered cases for the commission of cognizable offences, especially, of more serious offences are expected to act shiftily and see to that the offenders did not escape from the clutches of law. It is the specific case of the defacto complainant in Crime No. 84 of 2020 on the file of Poolankurichi Police Station that in the occurrence, one of his hand got fractured and despite that no steps have been taken to reign

or arrest the accused by the Mr.Sethuraj, who was Sub-Inspector of Police, attached to the said Police Station. Hon'ble Mr. Justice A.Selvam, who is the native of the said village, appears to have caused enquiry and thereafter, went to the police station along with the victim and it was one of the news items in the visual media channels and also subject matter of discussion in social media. Therefore, the Sub-Inspector of Police, Sethuraj was transferred from the said Police Station and posted to Armed Reserved Police and one Mr.Sadhu Ramesh, Inspector of Police, took over the investigation and after recording the statements has filed final report charging the accused for the commission of offences under Sections 341, 294(b), 323, 324, 506(ii) and 326 I.P.C. and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 and the jurisdictional Magistrate is yet to take the final report on file.

11.In order to avoid re-occurrence of the incidents, the Superintendent of Police of the concerned Districts shall regularly conduct periodical review meetings in a meaningful and objective manner and if there is any infraction, misconduct, negligence of duty on the part of the concerned officers/officials, shall take immediate, necessary and appropriate action against the concerned officials and shall also inform the same to the superior officials.

12.It is also to be noted at this juncture that for the victim Mr.Senthil and others, a former Judge of this Court, Hon'ble Mr. Justice A.Selvam came to their rescue and that may not be a normal feature in many cases of similar nature. The police, guardian of law and order, who have been provided with sufficient powers under the relevant Statutes must take appropriate action against the accused, who commit/s offences, especially, cognizable offences.

13.Though the petitioner/party-in-person has drawn the attention of this Court to the decision of the Hon'ble Supreme Court reported in *(1991) 3 SCC 482* (supra) and made a plea for compensating the victim of the crime, namely, Senthil, in the considered opinion of the Court, such a situation has not arisen in this case for the reason that the trial Court after culmination of trial has to decide about awarding compensation under Sections 357 and 357-A Cr.P.C.

14.Therefore, in the light of the observations and the reasons assigned, the **Writ Petition stands closed**. The sixth respondent is directed to file further status report as to the taking on file, the final report/charge sheet in Crime No.84 of 2020, by the Court of Judicial Magistrate, Thirupattur, Sivagangai District. However, in the circumstances of the case, there shall be no order as to the costs.

Call on **09.11.2020**.

Index :Yes/No
Internet :Yes/No

[M.S.N.,J.] [P.R.M.,J.]
30.09.2020

sj

***Note:** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned*

To

1.The Secretary Home Department,
Secretariat,
State of Tamil Nadu,
Chennai - 600 009.

2.The Director General of Police,
Tamil Nadu Government,
Police Head Quarters,
Chennai - 600 004.

3.The Dean,
Government Medical College,
Pudukottai.

4.The District Collector,
Sivagangai District,
Sivagangai.

5.The Superintendent of Police,
Sivagangai District,
Sivagangai.

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M.SATHYANARAYANAN,J.
AND
P.RAJAMANICKAM,J.

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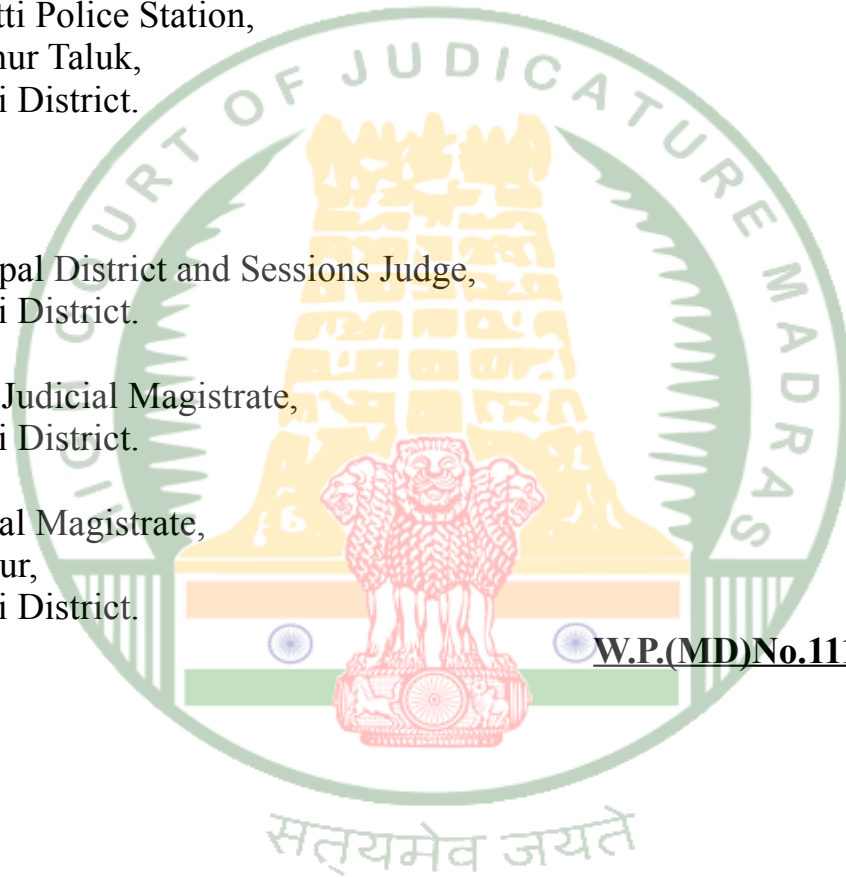
6.The Inspector of Police,
Ulagambatti Police Station,
Thiruppathur Taluk,
Sivagangai District.

Copy to

1.The Principal District and Sessions Judge,
Sivagangai District.

2.The Chief Judicial Magistrate,
Sivagangai District.

3.The Judicial Magistrate,
Thirupatthur,
Sivagangai District.



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