

W.P.(MD)No.4271 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED: 11.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

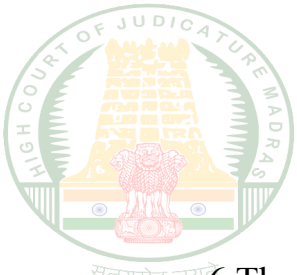
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R.R.Saravana Balagursamy

... Petitioner

Vs.

- 1.The Superintendent of Police,
Dindigul District.
- 2.Karuppusamy
The Inspector of Police,
Vadamadurai Police Station,
Dindigul District.
- 3.Thangapandi (SSI)
Special Sub Inspector of Police,
Vadamadurai Police Station.
- 4.Rajaganesh
Special Sub Inspector of Police,
Vadamadurai Police Station,
Dindigul District.
- 5.The Principal Secretary
Home (Police) Department
Fort St. George,
Chennai 600 009.



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6. The Director General of Police,
Mylapore
Chennai 600 004.

... Respondents

(Respondents 5 and 6 are suo motu
impleaded as per the order of this Court dated
11.03.2022)

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the 1st respondent to initiate the disciplinary proceedings against the respondents 2 to 4 for their illegal act and violation of human right acts and gross violation of supreme Court guidelines based on the petitioner's representation dated 20.11.2021.

For Petitioner : Mr.C.S.Ravichandran

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader

ORDER

The writ on hand has been instituted to direct the first respondent to initiate disciplinary proceedings against the respondents 2 to 4.



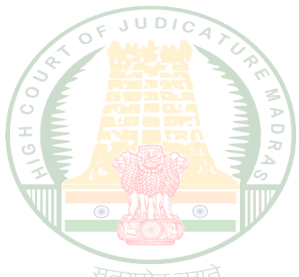
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2. The petitioner states that one Mr.Alagarsamy and Nagarajan, S/o.Gurusamy from the village had resorted to the dispute with reference to the family landed property. The petitioner states that their family filed a civil suit in O.S.No.89/2019 before the District Munsif Court. A judgment and decree was passed in their favour on 28.10.2020.

3. Thereafter, the petitioner sent a complaint to the revenue officials about the illegal sand quarrying carried out by Mr.Alagarsamy and Mr.Nagarajan. They sent a complaint to the Electricity Board regarding usage of electricity for illicit extraction of water in violation of the electricity regulation and electricity department imposed a fine of Rs.2,36,000/- and seized the offending vehicle.

4. The petitioner narrates various disputes between their family and the family of Mr.Alagarsamy and Mr.Nagarajan. Those disputes, complaints are unconnected with the relief sought for in the present writ petition and this Court is not inclined to record or offer any opinion in



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respect of such private civil disputes between the parties. For the limited purpose of dealing with the present writ petition, with reference to the relief sought for, the petitioner made an allegation that the third respondent, after met the accused persons, informed the petitioner that the accused persons are ready to pay a sum of Rs.2 lakhs as bribe to register an FIR against the petitioner. Accordingly, the third respondent demanded a sum of Rs.3 lakhs as bribe for the purpose of registering an FIR against the said Alagarsamy and Nagarajan. It is further contended that unless the petitioner pays the amount, the police informed that they cannot register an FIR against Alagarsamy and Nagarajan. The writ petitioner expressed his inability to pay the huge amount of Rs.3 lakhs demanded by the third respondent. The third respondent demanded Rs.2,50,000/- deducting Rs.50,000/-. In view of the fact that the petitioner has not paid the demanded amount by the second respondent, one Mr.Thangapandi, Sub Inspector of Police negotiated with the said Mr.Alagarsamy and Nagarajan and thereafter changed their attitude. The third respondent, instead of registering an FIR against the offenders, confined the petitioner illegally in the police station on 23.01.2021. It is



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contended that the second respondent and his subordinates did not allow the petitioner even to take treatment and illegally confined them in the police station overnight. The cell phones belong to the petitioner were also seized. The petitioner further states that the CCTV footage is to be verified to confirm the illegal detention of the petitioner.

5. Though such allegations of demand is made, the same has not been substantiated in the writ petition. Mere allegations are insufficient to initiate action against the public authorities. No doubt, the public authorities are expected to perform their duties diligently and in a reasonable manner. They should not provide any scope for raising such allegations and the conduct of the public officials must be in an expected level, where a public, who is approaching the police station or any other department, should feel that they will be getting appropriate remedy against their grievances. If a sense of doubtful atmosphere prevails in the Government departments that will result in disastrous consequences and further will lead to infringement of the rights of the citizen ensured under the Constitution of India. Therefore, public departments including the

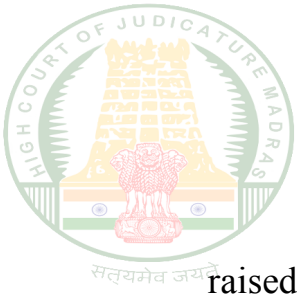


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police department must ensure that the public, who all are approaching the competent authorities, are not only treated properly but they should get the sense of feeling that they will be properly heard and their grievances will be redressed in the manner known to law. Contrarily, if there is scope for corruption allegations, then all this kind of writ petitions will be coming before the High Court to initiate departmental action against the public authorities.

6. In such circumstances, it would be difficult for the Courts to ensure whether allegations are genuine or not genuine. Constitutional Courts expect that the affidavits filed are with some substance as it is a sworn affidavit and therefore, the truth must be stated. It may be easy for the High Court to dismiss the writ petition merely by stating that the petitioner has not produced any evidence regarding the demand of bribe. As rightly pointed out by the learned counsel for the petitioner that such demand will not be made with evidence. Therefore, all such mitigating circumstances are also prevailing in our country. However, the Courts have to find out a solution for these allegations, which are all frequently



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raised against the public officials and many number of writ petitions are filed seeking direction to initiate action against the public officials including the police officials.

7. In the present case, no doubt this Court cannot conduct a roving enquiry in respect of the allegations made by the petitioner and the defence set out by the respondents.

8. The learned Additional Government Pleader drew the attention of this Court with reference to the contradictions in the statement of the petitioner. He further contended that in view of the fact that criminal case was registered against the writ petitioner, he was placed under suspension as he lost some of his service benefits. With that intention, he filed a writ petition to initiate disciplinary action against the police officials. This contention also cannot be brushed aside.

9. Cogent consideration of the allegations and counter allegations made by the petitioner and respondents, this Court is of the considered

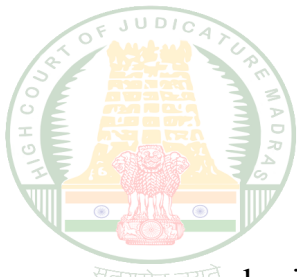


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opinion that the police authorities are expected to be more transparent and the procedures contemplated must be strictly followed. They are not expected to interfere in respect of civil disputes. However, when an offence was brought to their notice, then appropriate actions are to be initiated and the procedures contemplated under law has to be followed without any deviation so as to avoid any such allegations against the police officials. The Courts cannot merely rely on the statement regarding the demand of bribe made against the police authority, unless complaints are appropriately made without any delay. It is not made clear whether the petitioner has immediately complained to the higher officials or to the Vigilance and Anti Corruption Department. When the petitioner has not immediately registered any complaint before the Vigilance and Anti Corruption Department or to the concerned higher authorities by way of proper communication, the statement now made, after lapse of time in a writ petition may not be simply trusted upon.

10. Perusal of the affidavit reveals that sweeping statements are made without any substance and such statements made are not even



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submitted by way of complaint to the appropriate authorities. In the absence of any such proof to establish that the petitioner has taken action immediately, in respect of such corrupt activities, this Court cannot entertain and grant relief merely based on the affidavit filed at a later point of time in a writ petition.

11. The only one contention, which is to be considered by this Court is that the petitioner states that verification of CCTV footage would reveal certain facts. When the learned Additional Government Pleader made a submission that the CCTV footage in a police station will be maintained for 30 days and thereafter it will be erased automatically, therefore, now there is no scope for verifying the CCTV footage, Courts have repeatedly directed that the CCTV footage in police stations must be stored atleast for a period of 18 months as per the judgment of the Hon'ble Supreme Court of India in the case of ***Paramvir Singh Saini v. Baljit Singh & Others dated 02.12.2020***. The Hon'ble Supreme Court made the following observation in Paragraph No.17:

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“17.CCTV systems that have to be installed must be equipped with night vision and must necessarily consist of audio as well as video footage. In areas in which there is either no electricity and/or internet, it shall be the duty of the States/Union Territories to provide the same as expeditiously as possible using any mode of providing electricity, including solar/wind power. The internet system that are provided must also be systems which provide clear image resolutions and audio. Most important of all is the storage of CCTV camera footage which can be done in digital video recorders and/or network video recorders. CCTV cameras must then be installed with such recording systems so that the data is stored thereon shall be preserved for a period of 18 months. If the recording equipment is available in the market today, does not have the capacity to keep the States, Union Territories and the Central Government to purchase one which allows storage for the maximum period possible, and, in any case, not below 1 year. It is also made clear that this will be reviewed by all the States so as to purchase equipment which is able to store the data for 18 months as soon as it is commercially available in the market. The affidavit of compliance to be filed by all States and Union Territories and Central



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Government shall clearly indicate that the best equipment available as of date has been purchased.”

12. Now, best technologically developed CCTV cameras are available in the market. Therefore, the police station must be installed with the CCTV cameras, wherein, the footage can be stored atleast for a period of one year so as to conduct verification or enquiry whenever serious allegations are raised against the officials and against other persons. In spite of the orders of the Supreme Court and the High Courts, the police Department is not equipped with the CCTV cameras for storage of footage atleast for a minimum period of one year. The very purpose and object of CCTV cameras will be defeated, if the footage are automatically erased within 15 or 30 days. Therefore, this Court is of an opinion that best technologically equipped CCTV cameras must be installed or storage points must be provided for keeping the CCTV footage atleast for minimum period of one year.



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13. There is a growing trend of filing writ petitions against the public officials for initiation of departmental action. The Courts cannot mechanically issue such directions to initiate departmental action in the absence of any adjudication of disputed facts. Mere directions will cause prejudice and hardship to the public officials. Therefore, this Court is of an opinion that in all such circumstances, the representation or complaints submitted to the higher officials of the department must be enquired into properly and only if the petitioner is unable to redress the grievance, thereafter they must approach the Courts of law. In all such circumstances, when the superior officials of the police officials received such complaints, they must conduct preliminary enquiry to ascertain the truth behind the complaint and only thereafter if any decision is taken, the aggrieved person should approach the Court of law. The said process is of paramount importance in view of the fact that high Court cannot conduct an enquiry in respect of such disputed facts.



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14. The power of judicial review under Article 226 of the Constitution of India cannot be expanded for the purpose of conducting an enquiry into the disputed facts. All such facts are to be adjudicated at the initial stage by the competent authorities. If necessary, the higher authorities may intimate their decision or otherwise to the complainant without any loss of time. A mechanism must be provided at the District Level officials to ensure that the complaint against the officials are dealt with in a particular manner and an appropriate decision is taken and such decisions are communicated to the complainant or aggrieved persons so as to develop a confidence in the mind of the people, which is a constitutional mandate.

15. However, the practice prevailing as of now is that the aggrieved persons are sending a complaint and immediately filing a writ petition before the High Court. High Court cannot conduct an enquiry in respect of such disputes and mere directions in this regard are sometimes abused against the public officials. If the High Court passed an order to

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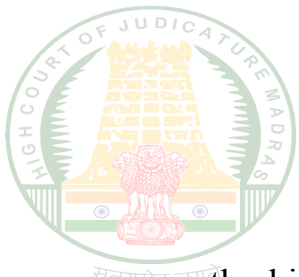
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consider the representation, sometimes those directions are abused or misused and the same will result in causing prejudice to the interest of the public officials in performance of their lawful duties and such practice cannot be encouraged by the Courts. All such allegations are to be enquired into at the first instance. Only after enquiry, if there is material available on record, then alone actions are to be initiated but not otherwise. The lawful performance of the duties and responsibilities of the public officials are to be protected by the Courts. The action taken by the police officials in good faith has to be certainly protected. Even if some mistakes occurred during the exercise of lawful power, such mistakes or actions may not be a ground for initiation of disciplinary action at the instance of the accused persons.

16. There is a growing trend on the part of the accused in developing the attitude of initiation of actions against the police officials. Once a criminal case is registered, then the accused persons are also attempting to take action against the police officials in order to escape from the clutches of law. Such practice may not be appreciated. Thus,

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the higher officials must ensure that the procedures are followed by the subordinate authorities in accordance with law and in the event of any complaint, appropriate preliminary enquiry is to be conducted. The person must be informed to the effect that the complaints are either substantiated or not substantiated or otherwise.

17. Regarding the CCTV footage, this Court is of an opinion that appropriate measures are to be taken and in the absence of taking any such measures, the very purpose and object of installation of CCTV cameras are defeated. It is not as if the CCTV cameras are installed in police stations, but it must be functional properly and the CCTV footages are stored at least for a minimum period of one year or 18 months, as the case may be, as directed by the Hon'ble Supreme Court in the case cited supra. For this purpose, the Principal Secretary to Government, Home (Police) Department, Fort St. George, Chennai – 600 009 and the Director General of Police, Mylapore, Chennai 600 004 are suo motu impleaded as respondent Nos.5 and 6.

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18. With reference to the relief sought for in the present writ petition, this Court is of the opinion that the petitioner has not substantiated the allegations and made sweeping statements, which may not be trusted upon and the petitioner has not immediately made such complaints before the Vigilance and Anti Corruption or before the higher authorities concerned.

19. In view of the facts and circumstances, this Court is inclined to pass the following order:

(i) The relief sought for in the present writ petition is rejected;

(ii) The respondents 5 and 6 are directed to ensure that the footages recorded in the CCTV cameras installed in Police Stations are stored and protected for a minimum period of one year or eighteen months and all measures are directed to be initiated to install footage storage facilities within a period of three months from the date of receipt of a copy of this order;

(iii) The sixth respondent – Director General of Police is directed to ensure that the recorded CCTV camera footages in Police Stations are



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stored properly and in the event of failure on the part of the subordinate officials, all appropriate actions are taken for their negligence, lapses and dereliction of duty under the relevant Service Rules and as per law.

20. With these directions, the writ petition stands disposed of. No costs.

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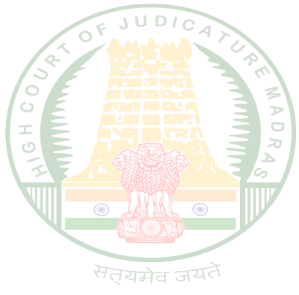
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Note: (1)The Registry is directed to list this matter, before this Court 'for reporting compliance' after two weeks.

To

1. The Superintendent of Police,
Dindigul District.
2. The Principal Secretary
Home (Police) Department
Fort St. George,
Chennai 600 009.
3. The Director General of Police,
Mylapore
Chennai 600 004.

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S.M.SUBRAMANIAM,J.

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