

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 18.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26630 of 2017

1.M.Kala

2.A.Muthukumar

...Petitioners

Vs.

1.The State of Tamil Nadu,
Rep.by the Principal Secretary to Government
Home Department, Secretariat,
Chennai – 600 009.

2.The Director General of Police,
Kamarajar Salai, Mylapore,
Chennai – 600 004.

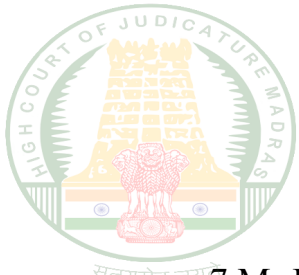
3.The Commissioner of Police,
Greater Chennai Police,
No.132, Commissioner Office Building,
EVK Sampath Road, Vepery,
Chennai – 600 007.

4.Mr.Nandakumar

5.Mr.Saravanan

6.Mr.Magimai Veeran

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7.Mr.Kannan
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8.Mr.Nagaraj

9.Mr.Subramani

10.Mrs.Jeyalakshmi

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the 2nd respondent Director General of Police to take appropriate action by conducting disciplinary enquiry against the Respondents 4 to 9.

For Petitioners : Mr.A.Muruganandam

For R1 to R3 : Mr.S.Rajesh
Government Advocate

For R4 : Mr.R.Ganeshkumar

For R5 & R6 : Mr.M.Ganesh

For R7 & R8 : Not Ready in Notice

For R9 & R10 : Mr.M.Deivanandam



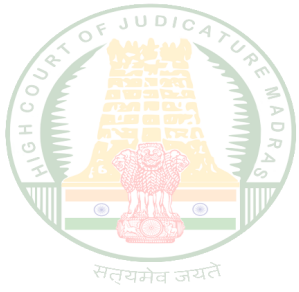
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ORDER

The matter is listed for final hearing today and when the matter is called, there was no representation on behalf of the writ petitioners.

2. The relief sought for in the present writ petition is to direct the 2nd respondent / Director General of Police to take appropriate action by conducting disciplinary enquiry against the respondents 4 to 9.

3. Growing trend of accusing the police personnel on registration of Criminal Case by the offenders at no circumstances be tolerated by the Courts. Practice of filing writ petitions against the police officials unnecessarily without any substance is increasing in recent days. Whenever the police officials initiate actions under law and by following the procedures, in order to escape from the clutches of law, these offenders are filing writ petitions against the police officials with false allegations and such allegations if found to be false or not substantiated or proved, then serious actions are warranted.



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4. The case on hand is one such case, where, the writ petitioner filed two writ petitions and the earlier writ petition filed before this Court in W.P.No.12015 of 2016 was withdrawn by the petitioner on 30.08.2017. The prayer in the said writ petition was to direct the respondents 1 to 3 to consider and decide the representation of the petitioner dated 04.01.2016. Since the said writ petition was withdrawn by the petitioner Smt.M.Kala, immediately after withdrawal on 30.08.2017, the petitioner filed the present writ petition in October 2017, with the prayer to direct the respondents to initiate appropriate action by conducting disciplinary enquiry against the respondents 4 to 9. The writ petition had been kept pending for the past about 5 years and now listed for final hearing.

5. The writ petitions are filed against the Police Officials frequently for initiation of disciplinary action against the Police authorities. Keeping those writ petitions pending unnecessarily for long years, undoubtedly, would cause mental agony to such Police authorities and it would cause hindrance for peaceful performance of their lawful duties. The accused persons or their relatives are frequently filing writ petitions with an idea to

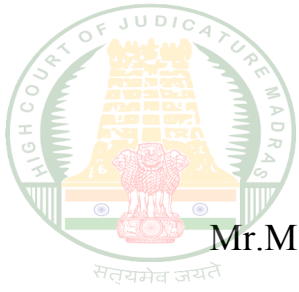


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discourage the Police authorities and to morally weaken them for their gains and to escape from the clutches of the criminal proceedings. In the present case, the petitioner earlier filed a writ petition and withdrew the same on 30.08.2017. Immediately, after 3 months, the present writ petition has been filed in October 2017 with a prayer to direct the authorities to initiate disciplinary proceedings against the Police authorities. In the present case, additional respondents are impleaded in their personnel capacity.

6. The official respondents filed a counter affidavit, stating that the petitioners are running an Orphanage Home in an illegal manner and actions were initiated against the petitioners. On initiation of action against the complaint regarding missing of a minor child, the Police authorities rescued the minor child and handed over to the child's mother in H.C.P.No.3725 of 2014.

7. Thus, actions were initiated against the Home being run by the petitioners and the minor child was also rescued by the Police officials relating to Habeas Corpus Petition. The son of the writ petitioner



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Mr.M.Dinesh separately filed a petition before the State Human Rights Commission and the Commission after adjudicating the issues, dismissed the petition on 20.10.2021. The son of the petitioner was not able to establish any Human Rights violation before the State Human Rights Commission.

8. Lawful performance of duties by the Police authorities are to be protected at all circumstances. The duties performed with good faith is also to be protected. On receipt of any complaint from any such accused persons or their relatives, the Competent Higher Authorities of the Police Department have to conduct a preliminary enquiry first to identify the genuinity of the allegations against the field level Police officers and thereafter, initiate actions, if there is any substantial evidence. The authorities are not expected to rush on initiation of actions against the field level Police officials. The field level police officers, while performing public services, are facing many difficulties and maintenance of Law and Order in the current day society is undoubtedly a tough job. The societal conditions prevailing are complex. The field level officers must perform

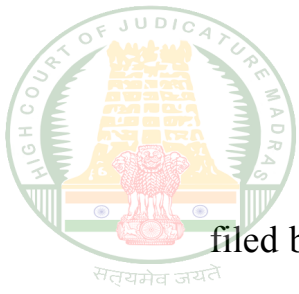


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their duties freely, fairly and by following the procedures as contemplated under law. Only in the event of any illegality or excess exercise of power or otherwise without any authority, then alone, actions are to be initiated against such officials.

9. High Court, while exercising the power of judicial review, if found that there is no *prima facie* case for admission, it is to be heard as expeditiously as possible. Keeping such writ petitions pending for long years would cause prejudice to the interest of the field level Police officials and the pendency would also to be a concern for them and sometimes it may affect their service benefits also. These officials are forced to engage private lawyers to defend their cases in such writ petitions, since they have been impleaded in their personal capacity. Therefore, false and frivolous writ petitions are to be disposed of as early as possible, so as to ensure no prejudice are caused to either of the parties.

10. In the present case, the Police authorities rescued a minor child and handed over to the mother in a Habeas Corpus Petition. The complaint



filed by the petitioners son before the State Human Rights Commission was dismissed by the Commission. Therefore, this Court is of an opinion that the present writ petition is filed without any justification. The petitioners have not established even a semblance of legal right for the purpose of considering the relief. Thus, the present writ petition is a fit case for imposing costs.

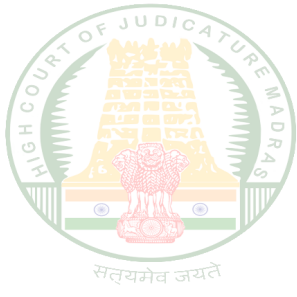
11. Accordingly, the following orders are passed:

(1) The relief sought for in the present writ petition stands rejected.

(2) The petitioners are directed to pay a sum of Rs.5,000/- (Rupees Five Thousand each) to each of the respondents 4 to 10.

(3) Thus, the petitioners are directed to deposit the total sum of Rs.35,000/- (Rupees Thirty Five Thousand only) to the 3rd respondent / The Commissioner of Police, Greater Chennai Police, Chennai, within a period of four (4) weeks from the date of receipt of a copy of this order.

(4) The 3rd respondent / The Commissioner of Police,



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on receipt of the said amount, shall distribute the same to the respondents 4 to 10 herein (Each Rupees Five Thousand only).

12. With the above directions, the Writ Petition stands disposed of with costs.

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Index : Yes
Speaking order: Yes
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To

1. The Principal Secretary to Government
State of Tamil Nadu,
Home Department, Secretariat,
Chennai – 600 009.
2. The Director General of Police,
Kamarajar Salai, Mylapore,
Chennai – 600 004.
3. The Commissioner of Police,
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VERDICTUM.IN



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