
(2001) 01 MAD CK 0001

In the Madras High Court

Case No : Criminal Original Petition No. 13026 of 1998

C. Edward and Others

APPELLANT

Vs

M. Soundarapandiyan and Others

RESPONDENT

Date of Decision : 17-01-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 147, 148, 284, 322, 324

Citation : (2001) CriLJ 2336 : (2001) 1 LW(Cri) 277

Hon'ble Judges : M. Karpagavinayagam, J

Bench : Single Bench

Advocate : P. Selvaraj, for the Appellant; R. Antony Xavier and R. Karthikeyan, Government Advocate, for the Respondent

Judgement

M. Karpagavinayagam, J.—While I pronounce this order, I cannot but begin with a note of anguish, as in this case an episode of black

sheep from the Police Department is exposed causing serious concern over the functioning of the law enforcing agency.

2. The petitioners for having committed ""sin"" of obtaining the order of anticipatory bail from this Court and in compliance of the condition imposed

in the said order having appeared before the Sub-Inspector of Police who is the Investigating Officer in the case, were beaten up by him by police

lathi on his being aggrieved that the petitioners approached this Court without his permission resulting in the hospitalisation of the petitioners for

several days for curing the injuries inflicted on their bodies. This unfortunate incident is brought to the notice of this Court in this petition filed u/s

482, Cr. P.C. requesting suitable action against the Sub-Inspector concerned, as their cry to the higher officials seeking for appropriate action fell

on the deaf ears and did not yield desired results.

3. The short facts leading to the filing of the present petition are summarised as follows :--

(a) There was a land dispute between the petitioners and one Chellappan over the title and possession of the said land and a suit was filed before

the District Munsif's Court, Kuzhithurai. It was decreed in favour of the petitioners. In the appeal before the lower appellate Court and the second

appeal before the High Court also ended in their favour. When the first petitioner Edward on 5-6-1997 was engaged in the erection of a fence

around the said property, a wordy altercation arose between the first petitioner and the wife of Chellappan. In regard to this incident, Nasammal,

the wife of Chellappan gave a complaint to the Kaliakkavilai Police Station which was registered in Crime No. 512/97 against the petitioners for

the offences under Sections 147, 148, 447, 452, 325, 322 and 329, I.P.C.

(b) On coming to know of the registration of the case, the petitioners filed an application before this Court and obtained anticipatory bail on 3-7-

1997 with a condition that they shall furnish sureties to the satisfaction of the Judicial Magistrate and appear before the Sub-Inspector of Police,

Kaliakkavilai Police Station daily. In pursuance of the said direction, the petitioners surrendered before the Judicial Magistrate on 9-7-1997 and

furnished sureties. Next day, i.e. on 10-7-1997, the petitioners appeared before the Kaliakkavilai Police Station and handed over the orders of

this Court and the Magistrate Court to Soundarapandiyan, Sub-Inspector of Police, Kaliakkavilai. Immediately, the said Soundarapandiyan, Sub-

Inspector of Police began to abuse the petitioners stating that even if they have obtained bail order from the High Court, they have to come before

him only any way and further abused questioning as to why they did not meet him before obtaining the bail order. So saying, the Sub-Inspector of

Police assaulted the petitioners with lathi and hands and rolled them on the floor and caused severe injuries all over the bodies of the petitioners.

They were kept at the Police Station up to 4.30 p.m. The said Nesammal, the first informant in the complaint already registered was brought to the

Police Station and the Sub-Inspector of Police obtained some petition from her. Then, the Sub-Inspector of Police forcibly obtained signatures

from the petitioners in the blank papers and thereafter arranged to drop them at

their residence. The next day, they sent telegrams to the High Court and the various officials of the Government requesting action. The petitioners were taken to Government Hospital where they were treated for a number of days.

(c) On the complaint of the petitioners, the Revenue Divisional Officer, Padmanabhapuram was directed to conduct enquiry over the allegation of

the petitioners. During the course of enquiry, he examined petitioners as well as the Sub-Inspector and others. Soundarapandiyan, Sub-Inspector

told the Revenue Divisional Officer that the main case in Crime No. 512/97 of Kaliakkavilai Police Station against the petitioners was not

registered by him and the same was enquired by another Enquiry Officer, that on 10-7-1997 Nesammal and her daughter appeared before him

and preferred a complaint alleging that the petitioners quarrelled with them and abused in filthy language and the said complaint given on 10-7-

1997 was registered in Crime No. 419/97 and summoned the petitioners and warned them not to create further problems and sent them away and

that he did not assault the petitioners. After examination of the doctors, the Revenue Divisional Officer came to the conclusion that the statement

made by the petitioners with regard to assault on them by Soundarapandiyan, Sub-Inspector of Police was true, and the statement given by the

Sub-Inspector stating that he enquired the petitioners only on 10-7-1997 on the complaint of Nesammal which was registered in Crime No.

419/97, was not at all true, since the case diary did not reveal such a registration and sent a report to Collector recommending for taking suitable

action against the police official concerned.

(d) On receipt of this report, the District Collector sent a letter to the Superintendent of Police, Kanniyakumari District at Nagercoil on 27-11-

2000 stating that he would agree with the finding of the Revenue Divisional Officer and as such, suitable departmental action against the delinquent

police official Mr. Soundarapandiyan, Sub-Inspector of Police has to be taken by the Superintendent of Police and the report to be sent to the

Collector at the earliest.

(e) The petitioners have approached this Court seeking for a suitable direction even when the said enquiry by the Revenue Divisional Officer was

pending, as it was felt that the petitioners may not be able to get justice at the

hands of the officials to whom they have reported about the injustice done to them.

4. The prayer in this petition is to direct the Director General of Police and other officials, namely, respondents 2 to 6 to register a criminal case

against the said Soundarapandiyan, Sub-Inspector of Police, the first respondent herein and file a charge-sheet against him with reference to the

assault made by him on the petitioners on 10-7-1997 at the Kaliakkavilai Police Station and pass such or other orders as this Court may deem fit

and proper. This petition along with an affidavit sworn to by Edward, the first petitioner herein has been filed on 24-12-1997.

5. It is now reported to this Court that in view of the finding of the Revenue Divisional Officer against the Sub-Inspector of Police that the

allegations by the petitioners in their complaint are true, the departmental action by the Superintendent of Police is being initiated against the

delinquent official on the direction of the District Collector through his letter dated 27-11-2000.

6. Under those circumstances, in the light of the submission made by the Government Advocate that the enquiry conducted by the Revenue

Divisional Officer was not u/s 145 of the Police Standing Orders and the same was conducted only in order to find out the truth and on finding

prima facie materials, departmental action is initiated, this Court has to consider whether it is desirable to grant the reliefs sought for in this petition

or to give such other directions by moulding the reliefs suitably.

7. In order to decide the same, it would be worthwhile to consider the factual aspects in detail.

8. On going through the entire records produced by the petitioners and the various copies of the reports prepared by the officials which were

produced by the learned Government Advocate, the following details are noticed.

9. Edward, the first petitioner filed a suit claiming 1/4 share in the plaint item having an area of more than 3½ acres against Chellappan and others

in O.S. No. 2 of 1983 on the file of the Additional District Munsifs Court, Kuzhithurai. The suit was decreed in favour of the first petitioner.

Against that decree, an appeal was filed before the lower appellate Court in A. Serial. No. 33 of 1992. The lower appellate Court also confirming

the decree passed in favour of the first petitioner dismissed the appeal.

Aggrieved by the same, Chellappan's legal representatives, viz., Nesammal and others after his death filed a second appeal in Sub-article. No. 874 of 1994. By the judgment dated 24-2-1997, this Court dismissed the second appeal and confirmed the decree passed by the Courts below in favour of the first petitioner.

10. On 5-6-1997 the first petitioner and his servants were engaged in the erection of a fence around the land. At that time, Nesammal and others came and questioned him. There was a wordy quarrel. Therefore, the said Nesammal gave a complaint to the Sub-Inspector of Police, Kaliakkavilai Police Station against the petitioners and the same was registered in Crime No. 512/97. for the offences of trespass and theft.

Though this was registered by the Head Constable, it is stated in the F.I.R. that the said Nesammal presented this complaint to the Sub-Inspector of Police.

11. On coming to know of the registration of F.I.R., the petitioners left the village for making arrangements to obtain anticipatory bail before the High Court. But, on that day at night time, the Sub-Inspector of Police along with the other constables came to the village and broke open the doors of the house of the petitioners and abused the family members.

12. Thereafter, the petitioners filed an application for anticipatory bail in Cri. O.P. No. 8456 of 1997 before this Court. This Court on hearing the counsel for the petitioners and the learned Government Advocate by the order dated 3-7-1997 ordered anticipatory bail, since the dispute had arisen over the civil case pending between the parties on the condition that the petitioners shall execute a bond for Rs. 1,000/- with one surety for a like sum to the satisfaction of the Judicial Magistrate, Kuzhithurai and on further condition that they shall report before the Sub-Inspector of Police, Kaliakkavilai daily at 10 a.m. until further orders.

13. In pursuance of the said order, the petitioners surrendered before the Judicial Magistrate No. 1, Kuzhithurai on 9-7-1997 and furnished the sureties. Thereafter, the Judicial Magistrate Court, Kuzhithurai issued a memo accepting the sureties and directed the petitioners to report before the Sub-Inspector of Police, Kaliakkavilai daily at 10 a.m. as per the High Court's order.

14. Along with the copies of the orders, the petitioners appeared before the Sub-

Inspector of Police, Kaliakkavilai, the first respondent herein and produced the same before the Sub-Inspector and requested him to record their reporting and obtain the signatures in the report notebook.

immediately, the Sub-Inspector of Police got angry over the anticipatory bail order obtained by the petitioners and started abusing in a filthy language by questioning them as to how they could go to High Court to get an order of anticipatory bail without meeting him. He also assaulted with a police lathi severely and brutally on the back and chest on the petitioners and rolled them on the floor. All of the petitioners were kept under illegal custody in the Police Station till 4.30 p.m. by the Sub-Inspector of Police. Then he obtained signatures in the blank papers from the petitioners and threatened them not to disclose this incident (sic) took place in the station and thereafter, he arranged to take them and drop them in front of the house. This incident was witnessed by one Rajan, son of Ponnu Nadar and the driver of Ambassador car, who took the petitioners to the Police Station and also by one Christopher. Thereafter, all the petitioners were admitted in the Government Hospital, Kuzhithurai and the petitioners 3 to 6 were treated as out-patients and the petitioners 1 and 2 were referred to the Government Hospital, Kottar, where they were hospitalised for 3 to 6 days. After discharge, they continued to take Siddha treatment in Government Hospital, Kuzhithurai. This incident was reported through telegrams to the High Court, other police officials and the executive officials including Home Secretary to the Government.

15. As per the wound certificates, first petitioner Edward sustained injuries on the wrist, knee, chest and shoulder, second petitioner Vijayan sustained injuries on the finger and the back; third petitioner Chandran sustained injuries on the back, knee and left thumb; fourth petitioner John sustained injuries on the left elbow and back; fifth petitioner Ramachandran sustained injuries on the right thumb, wrist and stomach and sixth petitioner Robinson sustained injuries on the right wrist, right elbow and left ear. The doctors also issued medical certificates to the effect that Edward and Robinson were hospitalised in the hospital for a number of days. Thus, the petitioners in spite of the orders passed by this Court directing them to report to the Sub-Inspector of Police, Kaliakkavilai, they did not report from 11-7-1997, since they were beaten on 10-7-1997

and during subsequent days they were in the hospital.

16. Thereafter, they filed an application in Cri. M.P. No. 3250 of 1997 narrating the entire incident before this Court. This Court by the order

dated 4-8-1997 after hearing the counsel for the petitioners and the learned Government Advocate appearing for the respondent-police modified

the condition to the effect that the petitioners instead of reporting to the Kaliakkavilai Police Station, they shall report to the Kollankodu Police

Station daily. Accordingly, they were reporting to the said Police Station and ultimately, on 15-9-1997 the condition imposed by this Court was

completely relaxed after hearing the counsel for the petitioners and the Government Advocate in Cri. M.P. No. 4493 of 1997. From this, it is clear

that the Sub-Inspector of Police did not record the reporting of the petitioners on 10-7-1997 nor reported to the Public Prosecutor, High Court

regarding the non-compliance of the condition imposed by the High Court on the petitioners till the condition were modified by the order dated 4-

8-1997. Even when the condition was relaxed by this Court on 15-9-1997 in Cri. M.P. No. 4493 of 1997, it was never reported to this Court

that the condition imposed by this Court was not complied with till it was modified. On the other hand, it was represented by the learned

Government Advocate that the investigation was over.

17. In the meantime, as noted above, petitions on various dates regarding the assault on the petitioners by the Sub-Inspector of Police were sent to

the higher officials and the Government. Since no effective action was taken, they filed this application u/s 482, Cr.P.C. on 24-12-1997.

18. Meanwhile, the Revenue Divisional Officer, Padmanabhapuram was directed to conduct enquiry on the petition sent by the petitioners. Several

notices were sent to Soundarapandiyan, Sub-Inspector of Police, Kaliakkavilai. But, he did not attend the enquiry on various occasions including

on 12-9-1997 and 13-4-1998 and a special note was prepared with regard to his non-appearance in the enquiry and the same was sent to the

Superintendent of Police by the Collector on 19-9-1997. Again, a notice dated 22-4-1998 was sent to him fixing enquiry on 4-5-1998.

Ultimately, the said Sub-Inspector of Police appeared before the Revenue Divisional Officer on 4-5-1998 and gave a statement to the effect that

he did not assault on the petitioners and on the other hand, on receipt of a

complaint from one Nesammal on 10-7-1997 which was registered in Crime No. 419/97, the petitioners were enquired and they were warned not to create further problems and then sent away.

19. When this matter came up before this Court, this Court wanted to know whether the R.D.O. enquiry was over. Since the Revenue Divisional

Officer did not finish the enquiry, he was directed to appear before this Court. He appeared and requested for some time to finish the enquiry.

Accordingly, the time was granted and the matter was adjourned.

20. In the meantime, the Revenue Divisional Officer examined the petitioners and obtained statements and examined the doctors and verified the

case diary and general diary. After finishing the enquiry, he found that the allegations against the Sub-Inspector of Police made by the petitioners

were true and the explanations given by the Sub-Inspector of Police in the enquiry was false and sent a report to the Collector on 17-11-2000.

The Collector accepting the said report and on perusal of the various documents and the statements of the witnesses and the delinquent official,

directed the Superintendent of Police by the letter dated 27-11 -2000 to take departmental action against the Sub-Inspector of Police,

Kaliakkavilai.

21. The copies of the report and the documents have been filed before this Court. On going through the records, it is clear that the Sub-Inspector

of Police had not only chosen not to make appearance initially before the Enquiry Officer, but also given a false statement while he appeared on a

later date before the Revenue Divisional Officer. According to him, on 10-7-1997 he received a complaint from one Nesammal and the same was

registered in Crime No. 419/97 and on that basis, the petitioners were called to the police station and they were warned and sent away.

22. The Revenue Divisional Officer in his finding on the perusal of the records available with the police including the general diary, would observe

that there is no material to show that any complaint was received from Nesammal on 10-7-1997 and the case was registered in Crime No. 419/97

and as such, the statement given by the Sub-Inspector of Police is false.

23. According to the petitioners, they went and appeared before the Sub-Inspector of Police along with the anticipatory bail order copy issued by

the High Court and also the copy of the order of the Judicial Magistrate who

accepted the surety on their surrender. The High Court order was on 3-7-1997 and the order issued by the Magistrate was on 9-7-1997. Therefore, the petitioners have to necessarily appear before the Sub-Inspector of Police as per the directions issued by the High Court and the Judicial Magistrate.

24. Under those circumstances, the appearance of the petitioners before the Sub-Inspector of Police on 10-7-1997 was found to be true in compliance with the directions of the Courts. Even the Sub-Inspector of Police has not denied this fact of their appearance on 10-7-1997. If it is so, the Sub-Inspector of Police ought to have obtained the signatures in the note book to record their reporting to the Police Station as per the orders of this Court.

25. It is also specifically stated in the counter filed before this Court that on 10-7-1997 the petitioners appeared in the Police Station to comply with the orders of this Court. From this, it is clear that the Sub-Inspector of Police not only did not allow the petitioners to comply with the order by taking their signatures, but also assaulted them with lathi causing serious injuries on the various parts of their bodies stating that they should not have gone to the Court without meeting him. This is not only dereliction of duty on the part of the Sub-Inspector of Police, but also challenging and insulting the majesty of law by beating up the accused persons who obtained the orders from the High Court.

26. Furthermore, the allegations mentioned in the affidavit filed by the first petitioner with regard to assault have not been specifically denied through the counter-affidavit. Mere mentioning in the counter filed through the counsel of the first respondent that ""the alleged injuries mentioned by the petitioners are not known to this respondent"" would not be sufficient. On the other hand, the statement is evasive.

27. In view of the abundant materials collected by the Revenue Divisional Officer which is evident from his report and the report of the Collector accepting the Revenue Divisional Officer's report, it is clear that the Sub-Inspector of Police being a member of the law enforcing agency, has taken the law into his own hands and beat the petitioners only on being aggrieved that they obtained anticipatory bail from the High Court. Because of this attitude of one Police Officer, he ensured that the entire Police Agency of

this State gets a bad name.

28. In this context, the observation of the Supreme Court reported in Kishore Singh Ravinder Dev and Others Vs. State of Rajasthan, is quite

relevant, which is as follows (para 5) :--

Injustice anywhere is a threat to justice everywhere. Whatever affects one directly affects all directly. Nothing is more cowardly and

unconscionable than a person in police custody being beaten up and nothing inflicts a deeper wound on our constitutional culture than a State

official running berserk regardless of human rights. We believe the basic pathology which makes police cruelty possible will receive Government's

serious attention. Who will police the police? What psychic stress and social deprivation of the constabulary's life-style need corrective healing?

When will "wits, not fists" become a police kit? When will the roots of "third degree" be plucked out and the fresh shoots of humanist respect put

out? We make these observations in the humane hope that Art. 21, with its profound concern for life and limb, will become dys functional unless

the agencies of the law in the police and prison establishments have sympathy for the humanist creed of that Article.

29. The observations of the Apex Court referred to above would squarely be applicable to the present case also. The above] chronological events

would manifestly de-pict the inhuman and insubordinate altitude of the Sub-Inspector of Police who is considered to be the custodian of law. In-

stead of respecting the orders of the High Court by recording the petitioners reporting! on 10-7-1997, the Sub-Inspector of Police! has beaten up

the petitioners armed with a lathi till 4.30 p.m. at the police station, who were all on bail then, thereby putting the majesty of law in his illegal

custody. This is highly condemnable and this Court feels that Soundarapandiyan, Sub-Inspector of Police has to be suitably dealt with by the

authorities concerned.

30. In view of the efflux of time. I do not propose to direct the respondent-police to register F.I.R. and initiate criminal proceed-ings in a criminal

Court against the Sub-Inspector of Police, moreso when, on the basis of the Collector's letter, in the light of the finding given by the Revenue

Divisional Officer, the Superintendent of Police is taking suitable departmental action against him.

31. Under those circumstances, it would suffice to direct the Superintendent of Police as requested by the Collector to take suitable departmental action against the delinquent official on the basis of the finding.

32. It is also seen from the report of the Superintendent of Police placed before this Court that the Sub-Inspector of Police had received several

black marks and he came to adverse notice several times during his service in having eight punishments at his credit for different nature of

delinquencies and those eight punishments are given below :--

(1) Awarded a Black Mark by A.S.P. Thoothukudy in P.R. 343/81, dt. 21-4-81 for ""Reprehensible conduct in refusing to receive the Probation extension order issued in D.O. No. 1669/81, dt. 21-8-81"".

(2) Awarded a Black Mark by D.S.P. Kanniyakumari in PR. 98/88, dt. 26-11-88 for ""Neglect of duty in having failed to get wound certificate

from Medical Officer, Nagercoil in Cr. No. 271/85 of Kottar P.S. under-Section 324, IPC from 1-9-89 to 8-11-89"".

(3) Awarded a Black Mark by Supdt. of Police, Kanniyakumari in PR. 98/88, dt. 26-11 -88 for ""gross neglect of duty in not having taken up

further investigation immediately in Thuckalay P.S. Cr. No. 286/86 under-Section (sic) Man missing dt. 5-6-86"".

(4) Awarded a Black Mark by D.S.P., Thuckalay in PR. 117/88, dt. 24-5-89 for ""gross neglect of duty in not writing the G.D. on 15-5-88 at

7.00 hrs. though he attended weekly parade at Thuckalay P.S. on 15-5-88"".

(5) Awarded a Censure by Dy. Supdt. of Police, Nagercoil in PR. 133/99 for ""Indisciplinary conduct in having taken charge as S.I. 1 at Kottar

P.S., when there was already one S.I. No. 1 at Kottar P.S., knowing very well about having been reverted as N.C. and thereby created confusion

in the Police Station on 29-5-89"".

(6) Awarded a Censure by Dy. Supdt. of Police, Nagercoil in P.R. 118/91, dt. 9-3-92 for ""Neglect of duty in having absented himself without any

leave or permission from 20-6-89 to 2-3-90"".

(7) Awarded postponement of increment for a period of one year without cumulative effect to be spent on duty, by Supdt. of Police,

Kanniyakumari in PR. 207/97, dt. 3-4-98, for ""Neglect of duty and perfunctory investigation in Arumanai P.S. Cr. Nos. 385/95, 97/95, 126/95,

582/95, 705/95, 708/95, 754/95, 808/95 and 819/99 laid charge-sheets in Cr. Nos. 97/95, 128/95, 705/95, 808/95 and 8198/95 against six

accused merely on the basis of confession of one of the accused without any evidence, against all the accused and did not take any action in Cr.

No. 385/95, 582/95, 708/95 and 754/95".

(8) Awarded postponement of increment for a period of one year without cumulative effect to be spent on duty by Supdt. of Police,

Kanniyakumari in PR. 117/88, dt. 4-2-99 for ""Neglect of duty in not effectively prosecuting the case in Arumanai P.S. Cr. No. 671/94 under-

Section 284, IPC. (STC. 454/95) and not rendering assistance to the Court of Judicial Magistrate No. 1, Kuzhithurai for conducting of trial during

the tenure.

33. The Superintendent of Police further mentioned in his report that even in his tenure as Superintendent of Police, the delinquent official's

behaviour was not satisfactory and he was also facing an enquiry by the Vigilance and Anti-Corruption and the said enquiry is progressing.

34. So in the light of these materials, the Superintendent of Police is directed to take appropriate and suitable departmental action as expeditiously

as possible against the delinquent official on the basis of the finding, in the light of what is stated above.

35. Even though I do not propose to direct the police to register F.I.R. against the Sub-Inspector of Police, in view of the departmental action is

being taken, I deem it fit that the petitioners have to be suitably compensated for the grave injustice done to them by the Sub-Inspector of Police

by misusing his position.

36. Under those circumstances, I am of the view that each petitioner would be entitled to Rs. 25,000/- (Rupees Twenty five thousand) as

compensation. Therefore, the Home Secretary to the Government is directed to pay compensation to each of them and the said sum could be

recovered from the first respondent, if so advised. Since the 6th petitioner died during the pendency of this petition, his legal representatives would

be entitled to the said compensation.

37. With these observations, the petition is disposed of.