

(2006) 09 MAD CK 0256

In the Madras High Court

Case No : Criminal O.P. (MD) . No. 6481 of 2006

Shanmugaraj

APPELLANT

Vs

The Superintendent of Police, Thoothukudi District,
Thoothukudi and Ors

RESPONDENT

Date of Decision : 22-09-2006

Acts Referred:

Citation : (2007) 1 LW(Cri) 137

Hon'ble Judges : M. Jeyapaul, J

Bench : Single Bench

Advocate : A. Thiruvadikumar, for the Appellant; L. Murugan, Government Advocate Crl. side, for the Respondent

Final Decision : Allowed

Judgement

M. Jeyapaul, J.—The petition is filed seeking a direction to the third Respondent/ Inspector of Police, C.B.C.I.D., Thoothukudi, to register a case based on the complaint given by the Petitioner on 20.07.2006 to the Superintendent of Police, Thoothukudi District and investigate the case in accordance with law.

2. The Court heard the submissions made on either side.

3. The sum and substance of the complaint is as follows:

There was a property dispute between the Petitioner on the one side and Sathaiah, Govindan, Manikaran and Petthaiah on the other side. In the appeal preferred by the Petitioner herein as against the judgment pronounced by the trial Court in a civil suit, he obtained a verdict in his favour. Armed with the said verdict in his favour, the Petitioner started removing the bushes in the property in dispute. The opposite party, who lost their case in the appeal came down to the property in dispute and threatened the Petitioner and his people with dire consequences. Ultimately, the Petitioner was not in a position to go ahead with the operation of removing the shrubs from the land in dispute. The Petitioner thereafter proceeded to Soorangudi Police Station for the purpose of submitting a

petition on 07.07.2006 seeking police protection to safeguard his interest in the property by virtue of the decision arrived at in the appeal preferred by him. Surprisingly, the police personnel, who was present in the police station, refused to receive the petition for the simple reason that the Sub-Inspector of Police was absent at that point of time. In spite of best efforts taken twice thereafter by the Petitioner to give the said petition to the Sub-Inspector of Police, he could not do so as the Sub-Inspector of Police was not available on those two occasions also. On 10.07.2006, when the Petitioner approached the Sub-Inspector of Police, who was fortunately present in the police station to submit the petition, he refused to entertain the petition given by the Petitioner. Thereupon, the Petitioner approached the Deputy Superintendent of Police, Vilathikulam on 11.07.2006 and submitted a petition. The Deputy Superintendent of Police assured the Petitioner that the Sub-Inspector of Police would enquire into the matter. On 12.07.2006 at about 06.30 p.m., the Petitioner was called to the police station for the purpose of enquiry relating to the petition the Petitioner has submitted. The Petitioner accompanied by his brother Arumugam went to the police station, where he found the opposite party present over there. The Sub-Inspector of Police Mr. Manimozhi asked the Petitioner whether he gave a complaint to the Deputy Superintendent of Police. When the Petitioner responded positively to the query of the Sub-Inspector of Police, the Sub-Inspector of Police fisted him on the backside of his neck. He also kicked him with the boots on his legs, on his buttocks. The Petitioner unable to bear the unexpected attack, fell down on the steps of the police station. The Sub-Inspector of Police with the boots on his legs kicked the Petitioner on his right leg. Arumugam, the brother of the Petitioner made a fervent appeal to the Sub-Inspector of Police not to attack the Petitioner, as he had already been afflicted with chikkun kunya. The Sub-Inspector of Police having not spared the said Arumugam, fisted him on his right cheek. Arumugam sustained bleeding injury on his legs also. Having heaped abuse on the Petitioner, the Sub-Inspector attacked him with all force in his command on his right ear. The Petitioner had to swoon and collapse to the ground. The Sub-Inspector of Police indiscriminately kicked the Petitioner as well as his brother with the boots of his legs. On the said day from 06.30 p.m. to 09.045 p.m., they had to meet the cruel and inhuman treatment at the hands of the Sub-Inspector of Police. The Petitioner and his brother Arumugam were illegally detained in the police station itself on 13.07.2006 and 14.07.2006 and thereafter, they were let off with a stern warning that if the Petitioner and his brother chose to disclose the occurrence that took place in the police station to the outside world, they will be slapped with a prohibition case. The Petitioner has lost his hearing power on his right ear. That apart, he and his brother Arumugam had sustained injury all over their bodies. They proceeded to Vilathikulam Government Hospital on 15.07.2006 for the purpose of treatment. They were admitted to Thoothukudi Government Hospital on 17.07.2006 for further treatment.

4. In the counter filed by the second Respondent, it has been averred as follows:

The wild allegations found in the petition seeking registration of a case based on

the complaint given by the Petitioner on 20.07.2006 are totally false. After receiving the complaint, enquiry was taken up and the same is still pending. The averments found in the second paragraph of the petition have no shade of truth. The Petitioner had not produced any order of the Court for taking suitable action. The averments contained in paragraph 3 is stoutly denied. The allegations have been made against the Sub-Inspector of Police only to gain sympathy from the Court. Likewise, the averments contained in paragraph 4 also is totally false. The injuries alleged to have been sustained by the Petitioner and his brother were simple in nature. The second Respondent enquired the hospital authorities and recorded their statements. During the course of enquiry, the Petitioners themselves have stated that they sustained injuries while claiming up the step in front of the police station. As the Petitioners have denied the allegations found in the complaint, the petition given by the Petitioner was closed.

5. The learned Counsel for the Petitioner in the background of the medical certificate produced by the Petitioner would submit that the Petitioner was admitted to the Government Medical College Hospital, Thoothukudi on reference by Vilathikulam Government Hospital for the injuries he sustained in the murderous assault launched by the Sub-Inspector. It is his further submission that the doctor has meticulously noted down the complaint of the Petitioner that he was hard of hearing on his right ear. As the complaint reflects commission of cognizable offence as against the police officer, C.B.C.I.D., will have to be entrusted with the job of investigation of this case, he would further submit.

6. The learned Government Advocate (Criminal side) would submit that the Petitioner had allegedly sustained only simple injury. The Petitioner and his brother, during the course of enquiry, have submitted that no action is necessary based on the complaint given by them. The verdict in favour of the Petitioner rendered by the appellate Court was stayed by this Court. Only to gain sympathy from the Court, the Petitioner has come out with such allegation as against the police official, it is lastly contended by him.

7. Very serious allegation has been made as against one Manimozhi, Sub-Inspector of Police, attached to Soorangudi Police Station. The medical certificate produced by the Petitioner would show that he had been admitted for injuries he sustained all over his body and also on his right ear. Consistently, he has submitted to the doctor that he had lost his hearing on the right ear. He had been treated as in patient for about eight long days in Government Medical College Hospital, Thoothukudi. The Petitioner might have sustained simple injury as submitted by the learned Government Advocate (Criminal side). Further, the order obtained in his favour at the appellate stage might have been stayed by this Court. But when a citizen of this country has come out with a cogent allegation against the Station House Officer that the latter launched a virulent attack on him, which culminated in the impairment of hearing, the same will have to be thoroughly probed into unravel the truth behind the episode alleged in the complaint submitted by him. The serious allegation as against the police

personnel serving as a Station House Officer cannot be dealt with fairly and fearlessly by the Station House Officer of another police station.

8. Therefore, the case will have to be entrusted to the C.B.C.I.D., for the purpose of registration of the case and fair investigation in this matter.

9. Under the above facts and circumstances of the case, the Inspector of Police, C.B.C.I.D., Thoothukudi, is directed to register a case based on the complaint given by the Petitioner on 20.07.2006 to the Superintendent of Police, Thoothukudi District and investigate the same and file a final report within a period of 60 days from the date of receipt of a copy of this order.

10. With the above direction, this Criminal Original Petition stands allowed.