

(2008) 08 MAD CK 0018

In the Madras High Court

Case No : Writ Petition No. 17566 of 2008 and M.P. No's. 1 and 2 of 2008

Sun T.V. Network Limited

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 19-08-2008

Acts Referred:

Cable Television Networks (Regulation) Act, 1995 — Section 2

Constitution of India, 1950 — Article 19(1), 226, 227

Copyright Act, 1957 — Section 63

Criminal Procedure Code, 1973 (CrPC) — Section 144(3), 154(1), 154(3), 156, 156(3)

Citation : (2008) 08 MAD CK 0018

Hon'ble Judges : K. Venkataraman, J

Bench : Single Bench

Advocate : Vijay Narayan, S.C. for N. Senthil Kumar, for the Appellant; K. Ramasamy, A.A.G., assisted by, Edwin Prabakar, AGP for R.1 to R.12, R. Thiagarajan, S.C. for Muthuramalingam, for R.13, R. Murali, for R.18 to 20 and S. Rajendran, for R.14 to R.17 and R.21 to R.25, for the Respondent

Final Decision : Dismissed

Judgement

K. Venkataraman, J.—The Petitioner has approached this Court by filing the present writ petition for a mandamus directing the first

Respondent to instruct Respondents 3 to 12 to receive the complaints of the Petitioner with regard to illegal tapping of signals and register the same

and take action in accordance with law.

2. The short matrix of the case of the Petitioner as put forth by the Petitioner in its affidavit, in nutshell, is set out here under:

(a) The Petitioner is a leading Television Network in South India. Sun T.V. is one of its channels and is the No. 1 channel in Tamil Nadu. Apart

from this, the Petitioner runs other channels in Tamil, viz., K.T.V., Sun Music, Sun News and Chutti T.V., which are all leading channels in their

respective fields. The Petitioner is in business for several years and has received several competitive awards and enjoys high reputation amongst the viewers.

(b) The Channel Plus is an authorised distributor of Sun Network channels and Kal cables is the multi system operator who receives the signals of Sun TV from Channel Plus and transmits it to the end customers through cable operators.

(c) The 13th Respondent company is a recently started multi system operator in Madurai. It is owned by Thiru M.K. Azhagiri, son of the Hon''ble

Chief Minister of Tamil Nadu and Mr. Durai Dayanidhi, son of Thiru M.K. Azhagiri, who is the Managing Director. The said multi system without

approaching the Petitioner in a proper perspective to get signals of the said channels has started illegally and unlawfully tapping signals of the

Petitioner TV Network without any legal right. The illegal tapping is being done in a systematic and scientific manner from various sources at the

head end. Apart from them, their agents and link operators are also illegally tapping the signals of the Petitioner TV channel. In view of the same,

the Petitioner is put to heavy business loss and the same is continuing every day and minute. The 13th Respondent approached the TDSAT by

filing a petition for getting signals of the Petitioner TV Network and the same was dismissed as pre-mature. A consumer association also filed

another petition and the same was also dismissed. Another petition filed by the 13th Respondent before the TDSAT is pending.

(d) The Petitioner aggrieved by the illegal and unlawful action of the private Respondents, gave complaints to the various Police Stations on various

dates. The police personals are refusing to entertain and investigate the complaints due to the reason that the 13th Respondent company is owned

by the son of the Hon''ble Chief Minister. Even if one or two complaints are received, no action is taken.

(e) The Petitioner sent a representation to the Commissioner of Police, Madurai, the third Respondent herein and the third Respondent also

remained as a silent spectator with folded hands instead of taking action against the private Respondents and on the contrary they are giving police

protection to the illegal activities of the private Respondents. Hence, the Petitioner sent a complaint to the first Respondent on 17.07.2008 to

enquire into this matter, but, unfortunately, even thereafter, the said illegal act continues unabated. The Petitioner is not filing a private complaint

since the Petitioner having regard to believe the past experience that police will not take any action in accordance with law. No useful purpose

would be achieved by the Petitioner by approaching either the police or the Magistrate Court. Hence, the Petitioner has approached this Court by

filing the present writ petition for the relief set out earlier.

3. Counter affidavit had been filed on behalf of the third Respondent, which in nutshell, is set out here under:

(a) The prayer that has been sought for by the Petitioner in this writ petition cannot be granted since it is against the law laid down by the Hon'ble

Apex Court. The Petitioner has to avail the alternative remedy available under the Code of Criminal Procedure and it cannot invoke the

extraordinary jurisdiction of this Court under Article 226 of The Constitution of India without availing the said alternative remedy.

(b) The action taken by Respondents 4 to 10 has been scrutinized. Hence, it is denied that there is inaction on the part of the official Respondents

in not preventing the illegal tapping of signals of the private Respondents.

There is no violation on the part of Respondents 3 to 12 at any time in protecting the fundamental rights guaranteed under Article 19(1)(a) of The

Constitution of India and the rights of the viewers and listeners have not been violated at any time. The rights of the Petitioner have not been

curtailed at any time.

(c) The Petitioner had sent a petition addressed to the Commissioner of Police, and the same was received and sent to the Assistant Commissioner

of Police, Law and Order, Town Range, on 26.06.2008, who in turn sent it to the Inspector of Police, Law and Order, C.2 Subramaniapuram

Police Station on 28.06.2008. Even before the receipt of the said petition, the same Inspector of Police, C.2 Subramaniapuram Police Station, had

received a similar petition on 12.06.2008 through courier. The matter had been enquired by him. On 13.06.2008, at 15.00 hours, the said

Inspector had visited Royal Cable Vision Private Limited, the 13th Respondent herein without any advance intimation. Thiru Krishnamoorthy, the

Manager was available there. After introducing himself, on investigation of the above petition, he witnessed the entire programmes being telecasted

from that place and found that there was no telecasting of any Sun TV channels and that they were telecasting only the information that instead of

their request for telecasting Sun TV Network channels, they were not provided with any links and delaying the matter. Further scrutiny made by

the said Inspector of Police revealed that there was no activity of any Copy Right Infringement as per Copy Rights Act or any offence punishable

under Indian Penal Code is going on at the said place and there was no clue available or evidence to prove that any activity as alleged by the

Petitioner in its petition was going on in that said premises. Thiru Sasikumar and Thiru Suresh, incharge of the Control Room of the 13th

Respondent were also enquired and their statements were obtained. He continued the investigation and enquired some receivers (general public) of

RCV TV Network and they also confirmed the above statements.

(d) In order to disclose the above information to the complainants representative, the Inspector of Police contacted one Thiru L. Jotheeswaran at

Chennai over phone on 19.06.2008 and he directed Thiru Murugesan, his representative and the said Thiru Murugan appeared at the police

station and informed that he had no knowledge about the said matter and he could not present any document or divulge any statement without the

approval of his higher officials at Chennai and left the police station. Therefore, the Inspector of Police came to the conclusion that the allegations

are not true and he forwarded the same to him through his superior officers. The third re to receive the complaints and hence, left with no other

alternative, the complaints are sent to the concerned police station through registered post/courier. No staff or persons of the Petitioner company

have been enquired by the official Respondents at any point of time. The enquiry said to have been conducted at the premises of the thirteenth

Respondent is only a neatly drafted story. The said Murugesan has not made any statement as alleged by the Respondents. The official

Respondents are interested in closing the investigation rather than taking any action in accordance with law for the best reasons known to them.

The right to carry on business is a constitutional right and it should not be taken away by the Respondents. The official Respondents are supposed

to act in a fair and reasonable manner, but they are remaining as a silent spectator with folded hands.

4. I have heard Mr. Vijay Narayan, learned Senior Counsel appearing for the Petitioner, Mr. K. Ramasamy, learned Additional Advocate

General, appearing for Respondents 1 to 12, Mr. R. Thiagarajan, learned Senior Counsel appearing for the 13th Respondent, Mr. R. Murali,

learned Counsel appearing for R. 18 to 20 and Mr. S. Rajendran, learned Counsel appearing for R.14 to 17 and R.21 to 25.

5. The sum and substance of the arguments of the learned Senior Counsel appearing for the Petitioner is that the 13th Respondent company, which

has started Multi system Operation in Madurai, without approaching the Petitioner in a proper perspective to get signals of the Petitioner's

channels, has started illegally and unlawfully tapping the signals of the Petitioner TV Network without any legal right. The illegal tapping is being

carried out systematically and in a scientific manner from various sources at the head end. When the same is brought to the notice of the police

authorities by lodging complaints, they remained as silent spectators without taking any recourse. Since the 13th Respondent company is owned by

Thiru M.K. Azhagiri, Son of the Hon'ble Chief Minister of Tamil Nadu and Mr. Durai Dayanidhi, son of Mr. M.K. Azhagiri, who is the Managing

Director of the 13th Respondent, the representation sent to the third Respondent, the Commissioner of Police, Madurai, does not yield any result.

The illegal tapping is continued every day. Hence, the Petitioner had been driven to this Court by filing the present writ petition.

6. The learned Additional Advocate General appearing for the official Respondents submitted that the entire allegations made by the Petitioner are

totally without any substance. On receipt of the complaints by tapal, the same have been assigned C.S.R. Numbers and investigation is conducted

by the respective Inspectors of Police. Hence, to say that no action has been taken on the complaints of the Petitioner is totally devoid of truth. The

complaints that have been received by the third Respondent, the Commissioner of Police, Madurai, had been duly forwarded to the police

authorities concerned and investigation had been conducted by him. The reports sent by the Inspectors of Police had been scrutinized and ordered

for further enquiry and it is still pending. Thus, action had been taken on the basis of the complaints received by post from the Petitioner. In fact,

the Inspector of Police, the fourth Respondent herein, contacted Thiru L. Jotheeswaran, who is the authorised signatory of the Petitioner, over

phone, who directed one Murugesan, his representative to appear before the police officer, who informed that he had no knowledge about the said

matter and he did not produce any document or divulge any statement and left the police station stating that he will contact his higher officials at

Chennai and report. Thus, there was no cooperation on the side of the Petitioner. Further, the learned Additional Advocate General submitted that

the Petitioner had to avail the alternative remedy available under the Code of Criminal Procedure and without doing so, the Petitioner had rushed

to this Court and the same cannot be entertained. He has also relied on the decision of the Hon''ble Apex Court in this connection.

7. Mr. R. Thiagarajan, learned Senior Counsel appearing for the 13th Respondent would contend that the 13th Respondent or its employees did

not tap the signals of the Petitioner TV Network illegally and unlawfully and it is purely an imagination on the part of the Petitioner in making such

vague allegation. In fact, the fourth Respondent visited the office premises of the 13th Respondent and he himself found that there was no

telecasting of any Sun TV channels and there was no activity of any copy right infringement as per the Copy Rights Act or any offence punishable

under Indian Penal Code is going on in the said place. Thus, on the basis of the complaints received from the Petitioner, the concerned Inspectors

of Police have investigated the matter and nothing could be faulted on their investigation. Further, learned Senior Counsel would submit that the

remedy of the Petitioner in such circumstances is only to avail the remedy contemplated under the Code of Criminal Procedure and not by way of

the remedy under Article 226 of The Constitution of India.

8. I have considered the submissions made on behalf of the Petitioner and the Respondents.

9. The first and foremost issue that has to be considered in the writ petition is, whether the remedy of the Petitioner lies before this Court exercising

its power under Article 226 of The Constitution of India or whether the remedy of the Petitioner lies elsewhere as contemplated under the Code of

Criminal Procedure. The matter in issue came in consideration before the then Hon''ble First Bench of this Court and it has been held by the then

Hon''ble First Bench that the remedy of the persons in given circumstances is only by taking recourse under the Code of Criminal Procedure. The

same is reported in 2005 3 L.W. 87 - Venu Srinivasan v. Krishnamachari and Ors. It would be useful to refer paragraphs 9 to 16 of the said

judgment, which are extracted here under:

9. In our opinion, whenever it is alleged that a criminal offence has been committed, the complainant should ordinarily first avail of his remedy of

filing an F.I.R. in the police station u/s 154(1) of the Code of Criminal Procedure.

10. Under that provision information relating to the commission of cognizable offence can be given to an officer in charge of the police station.

Section 154(3) of the Code of Criminal Procedure states that if an officer in charge of the police station refuses to record the information referred

to in Sub-section (1) of Section 154 of the Code of Criminal Procedure, the complainant can send the substance of the information in writing by

post to the Superintendent of Police concerned. Thus, if the Station House Officer of a police station refuses to register an F.I.R., the complainant

has an alternative remedy of approaching the Superintendent of Police u/s 154(3) of the Code of Criminal Procedure.

11. If the Station House Officer as well as the Superintendent of Police refuse to register the F.I.R. or having registered it do not hold a proper

investigation, the complainant then has a second alternative remedy by filing an application u/s 156(3) of the Code of Criminal Procedure before

the Magistrate concerned. On such complaint the Magistrate can direct registration of the F.I.R. and/or proper investigation into the alleged

offence and he can also monitor the investigation vide Devarapalli Lakshminarayana Reddy and Others Vs. V. Narayana Reddy and Others, ,

Madhu Bala Vs. Suresh Kumar and others, , etc. spondent scrutinized his report and ordered for further enquiry and it is still pending.

(e) The Petitioner instead of visiting the police station in person and detailing the investigating officer on the infringement activities, had sent the

petition only through courier. Further, his representative also has not disclosed anything solid to prove their claim of an offence. Even assuming that

the third Respondent has not taken any action, the Petitioner has always the right to file a petition before the Sub Divisional Magistrate or District

Magistrate, Madurai, who are authorised officers as per Section 2(a) of the Cable TV Network (Regulation) Act, 1995 if there exists any

grievance for the Petitioner. Instead, the Petitioner had rushed to this Court

presuming inaction.

(f) Respondents 3 to 10 are loyal and disciplined police officers and whenever they received the courier tapal of the Petitioner, they assigned

proper petition receipt number and proceeded the same according to law and even though there was no supportive evidence or clue available or

supplied by the Petitioner, their representatives also failed to extend cooperation.

(g) It is not correct to state that the police officers refused to receive the complaint of the Petitioner. There is no ingredient attracting the offence u/s

63 of the Copy Rights Act or under any of the provisions of Indian Penal Code. The Petitioner's claim is false and factually incorrect. Thus, the

counter affidavit sought for the dismissal of the writ petition.

4. Counter affidavit had been filed by Respondents 11 and 12, which in nutshell, is extracted here under:

(a) Counter affidavit of the third Respondent, the Commissioner of Police, may be treated as part and parcel of the counter affidavit of these

Respondents. If the grievance of the Petitioner is that the First Information Report has not been registered, it is not as if the Petitioner left with no

other alternative remedy. The Petitioner can very well avail the alternative remedy available under the Code of Criminal Procedure. Hence, the

Petitioner cannot invoke the extraordinary remedy provided under Article 226 of The Constitution of India.

(b) After receipt of the petitions from the Petitioner, C.S.R. Numbers have been assigned. The preliminary enquiry conducted would reveal that

there was no activity of any copy right infringement as per the Copy Rights Act or any offence punishable under Indian Penal Code as alleged by

the Petitioner. There is no ingredient attracting the offence u/s 63 of the Copy Rights Act or any other provisions of the Indian Penal Code. The

allegations of the Petitioner are false and factually incorrect. Thus, the counter affidavit of Respondents 11 and 12 sought for the dismissal of the

writ petition.

5. Reply affidavit had been filed on behalf of the Petitioner, which in nutshell is set out here under:

(a) The Respondents are harping on technicalities about the maintainability of the writ petition instead of taking fair and proper action on the

complaints made by the Petitioner in the manner known to law. The availability

of an alternative remedy is not an absolute bar for filing the writ petition. It is not a single or isolated case. This is a classic case of abuse of process of law where the private Respondents in active connivance with the official Respondents are doing illegal acts in tapping/stealing the signals of the Petitioner, which continues every day and every minute even after filing more than fifty complaints.

(b) The disturbing fact is that whenever complaints are given about the illegal tapping of the signals, the police persons are refusing.

12. Apart from that, the complainant has a 3rd alternative remedy by way of filing a private complaint u/s 200 Code of Criminal Procedure.

13. Thus, there are three clear alternative remedies available to the complainant, if he alleges that a crime has been committed and hence it is not

proper for this Court to straightaway entertain a writ petition without insisting that the complainant first avails of those alternative remedies.

14. In *Gangadhar Janardan Mharte v. State of Maharashtra* (2004) 7 SCC 7868 (vide paragraph - 14), the Supreme Court observed that writ

application was not the proper remedy without availing the statutory remedies under the Code of Criminal Procedure We have taken a similar view

in *W.A. No. 909 of 2005* judgment dated 27.04.2005 *Alliraj Gounder Vs. The Inspector of Police and The Superintendent of Police, Special*

Crime Branch, Central Bureau of Investigation, .

15. In *H.S. Bains, Director, Small Saving-Cum-Deputy Secretary Finance, Punjab, Chandigarh Vs. State (Union Territory of Chandigarh)*, , the

Supreme Court observed that a Magistrate who receives a complaint u/s 156(3) of the Code of Criminal Procedure and orders investigation and

receives a police report may have one of the following three options:

(i) he may decide that there is no sufficient ground for proceeding further and drop action;

(ii) he may take cognizance of the offence u/s 190(1)(b) of the Code of Criminal Procedure on the basis of the police report and issue process;

(iii) he may take cognizance u/s 190(1)(a) on the basis of the original complaint and proceed to examine the complainant on oath u/s 200 of the

Code of Criminal Procedure.

16. In view of these statutory remedies, in our opinion, it was not proper for the Petitioner to straightaway rush to this Court under Article 226 of

the Constitution and make all kinds of allegations without availing of his alternative remedies stated above. If such writ petitions are entertained in

this manner, this Court will be flooded with such writ petitions and will be doing no other work but hearing such writ petitions. It is well settled that

if there is an alternative remedy, ordinarily a writ petition should not be entertained, vide *Tamilnadu State Transport Corporation (Villupuram*

Division II) Ltd. Vs. C. Durai and The Secretary, Regional Transport Authority, . We are going to be very strict on this principle otherwise this

Court will be flooded with all kinds of such petitions without exhausting the statutory alternative remedies available.

10. The Hon'ble Apex Court had also an occasion to consider the similar issue in the case of *Anandwardhan and Anr. v. Pandurang and Ors.*

(2006) 2 M.L.J. (Crl.) 299 and held that the remedy of the concerned person in given circumstances, is to take proceedings under the Code of

Criminal Procedure and not by invoking the jurisdiction under Article 227 of the Constitution of India. Paragraphs 6 and 7 of the said judgment are

usefully extracted here under:

6. We fail to understand how the High Court could have interfered in writ jurisdiction in a case of this nature. We find from the material on record

that several cases have been registered against the Respondent himself. It appears that he has sent some complaints to the police station by post.

There is also material to show that when the police required his presence in connection with the investigation of the case, he did not appear before

the police. The police after investigating his complaint in one case has closed the case finding it to be a matter involving civil dispute.

7. We do not wish to make any comments about the investigation of the case or the result of the investigator. The law provides that if the police

fails to investigate a case arising from a first information report lodged before it disclosing commission of a cognizable offence, it is open to the

informant/complainant to move the Magistrate concerned for appropriate order u/s 156 Code of Criminal Procedure, or may file a complaint and

obtain appropriate orders from him for issuance of process against the accused for trial. If the grievance of the Respondent was that the police was

not properly investigating his case, or that the report made by the police was wrong or based on no investigation whatsoever, it was open to him to

move the Magistrate concerned. Having failed to do so, he found the novel device of moving the High Court under Article 227 of the Constitution.

Such a writ petition should not have been entertained by the High Court when remedy is provided to the aggrieved party under the Code of

Criminal Procedure in accordance with the procedure established by law.

11. In yet another decision reported in (2008) 1 SCC (Cri) 440 : 2008 2 L.W. (Cri.) 902 - Sakiri Vasu v. State of Uttar Pradesh and Ors.,

similar view had been taken by the Hon'ble Apex Court and paragraphs 24 to 27 are usefully extracted here under:

24. In view of the above mentioned legal position, we are of the view that although Section 156(3) is very briefly worded, there is an implied

power in the Magistrate u/s 156(3) Code of Criminal Procedure to order registration of a criminal offence and/or to direct the officer in charge of

the police station concerned to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper

investigation including monitoring the same. Even though these powers have not been expressly mentioned in Section 156(3) Code of Criminal

Procedure, we are of the opinion that they are implied in the above provisions.

25. We have elaborated on the above matter because we often find that when someone has a grievance that his F.I.R. has not been registered at

the police station and/or a proper investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition u/s

482 Code of Criminal Procedure. We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to

interfere in such matters and relegate the Petitioner to his alternative remedy, first u/s 154(3) and Section 36 Code of Criminal Procedure before

the police officers concerned, and if that is of no avail, by approaching the Magistrate concerned u/s 156(3).

26. If a person has a grievance that his F.I.R. has not been registered by the police station, his first remedy is to approach the Superintendent of

Police u/s 154(3) Code of Criminal Procedure or other police officer referred to in Section 36 Code of Criminal Procedure If despite approaching

the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate u/s 156(3) Code

of Criminal Procedure instead of rushing to the High Court by way of a writ

petition or a petition u/s 482 Code of Criminal Procedure Moreover,
he has a further remedy of filing a criminal complaint u/s 200 Code of Criminal Procedure Why then should writ petitions or Section 482 petitions
be entertained when there are so many alternative remedies?

27. As we have already observed above, the Magistrate has very wide powers to direct registration of an F.I.R. and to ensure a proper

investigation and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate

himself). The High Court should discourage the practice of filing a writ petition or petition u/s 482 Code of Criminal Procedure simply because a

person has a grievance that his F.I.R. has not been registered by the police, or after being registered, proper investigation has not been done by the

police. For this grievance, the remedy lies under Sections 36 and 154(3) before the police officers concerned, and if that is of no avail, u/s 156(3)

Code of Criminal Procedure before the Magistrate or by filing a criminal complaint u/s 200 Code of Criminal Procedure and not by filing a writ

petition or a petition u/s 482 Code of Criminal Procedure.

12. The above pronouncement of the Hon''ble Apex Court makes it very clear that the remedy of the Petitioner lies not in approaching the writ

jurisdiction under Article 226 of The Constitution of India, but lies in an action contemplated under the Code of Criminal Procedure. The above

referred to judgments of the Hon''ble Apex Court and the Hon''ble First Bench of this Court make the position very clear.

13. The learned Senior Counsel appearing for the Petitioner, however, would submit that though an alternative remedy is available for the

Petitioner under the Code of Criminal Procedure, in the facts and circumstances of the present case, where the influenced persons are indulging in

unlawful activities in tapping the signals of the Petitioner TV Network without any legal right, it cannot be expected that the police authorities would

be acting impartially. Further, the learned Senior Counsel appearing for the Petitioner would draw my attention to the same judgment that has been

relied on by the learned Additional Advocate General, viz., (2008) 1 SCC (Cri) 440, wherein the Hon''ble Apex Court has held that alternative

remedy is not an absolute bar to a writ jurisdiction. Learned Senior Counsel emphasised on paragraph 28 of the judgment, which is extracted here

under:

28. It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the

High Court should not ordinarily interfere.

I am unable to accept the said contention of the learned Senior Counsel appearing for the Petitioner on two counts. First of all, even assuming that

there would be no useful purpose by availing the remedy lies under Sections 36 and 144(3) of Code of Criminal Procedure, before the police

officer concerned and if that is of no avail, the Petitioner can invoke the provisions u/s 156(3) Code of Criminal Procedure before the learned

Magistrate. Even after the learned Magistrate orders investigation as contemplated u/s 156(3) of Code of Criminal Procedure, again the Petitioner

had to depend upon the police officers, who, according to the Petitioner, is not taking any action, the Petitioner is not left with any other remedy

and it can file a private complaint u/s 200 Code of Criminal Procedure before the learned Magistrate concerned. Thus, the argument of the learned

Senior Counsel appearing for the Petitioner that the police authorities may not take action against the 13th Respondent or its servants, in view of

the fact that it is owned and managed by the influenced persons, and hence the alternative remedy available is only a myth, cannot be accepted.

Further, even though the Hon"ble Apex Court had opined that the alternative remedy is not an absolute bar to a writ petition, the Hon"ble apex

Court in an unequivocal terms has held that if there is an alternative remedy, the High Courts should not ordinarily interfere in a writ jurisdiction.

14. On facts, the third Respondent had filed a counter affidavit stating that the complaints received from the Petitioner have been forwarded to the

concerned police authorities and investigation had been made by them and reports were submitted stating that there is no illegal tapping of the

Petitioner TV Network channel. Further, according to the counter, the third Respondent had ordered for further investigation. Thus, the counter

affidavit of the third Respondent revealed that the further investigation has been ordered by him.

15. While noting the fact that the remedy of the Petitioner is only invoking the procedure contemplated under the Code of Criminal Procedure, one

disturbing factor is that some of the Inspectors of Police have returned the

complaints of the Petitioner sent by post without even opening the same to know what it is. The concerned authorities who are vested with power in investigating a matter on a complaint, cannot shut their eyes in entertaining the complaint being received in post. Further, some of the covers have been returned on the ground that the concerned Inspector of Police was not available at the police station. This is also a disturbing factor since even if the concerned Inspector of Police was not available at the time when the letter has been received, someone at the police station could have very well received the same, which is not a strange one. This attitude of the authorities has to be condemned. I hope that it will not reflect in future. However, on this ground, this Court cannot be expected to interfere by entertaining the Petitioner's writ petition filed under Article 226 of The Constitution of India, since the Hon''ble Apex Court as well as this Court has taken a view that the remedy of the Petitioner does not lie in filing the writ petition either under Article 226 of the Constitution of India or exercising power under Article 227 of the Constitution of India or u/s 482 of Code of Criminal Procedure.

16. Learned Senior Counsel appearing for the Petitioner would draw my attention to the orders of the Hon''ble Apex Court dated 14.07.2008 and 08.08.2008 made in Writ Petition (Crl.) No. 68 of 2008, wherein by an order dated 14.07.2008, the Hon''ble Apex Court had issued notice to the Chief Secretaries of the States and Union Territories and Director Generals of Police/Commissioner of Police, as the case may be, to show cause as to why the directions enumerated therein be not given. The matter is still pending before the Hon''ble Apex Court and has not been disposed of finally. However, it has to be seen that the Hon''ble Apex court had pointed out the procedures contemplated under Code of Criminal Procedure. Nowhere Their Lordships have stated that the remedy in the given circumstances is to approach the writ jurisdiction under Article 226 or 227 of The Constitution of India.

17. Considering the above facts and circumstances and considering the law laid down by the Hon''ble Apex Court referred to above, I am of the considered opinion that the remedy of the Petitioner lies by taking recourse under Code of Criminal Procedure and not by invoking the jurisdiction under Article 226 of The Constitution of India.

18. In fine, I am not inclined to grant the omnibus prayer that has been sought for by the Petitioner and the writ petition is ordered on the following

terms:

(a) Respondents 3 to 12, if complaint is received from the Petitioner, have to take cognizance of the same and investigate the same without

returning the same.

(b) If Respondents 4 to 12 refuse to entertain the complaint or fail to investigate the same properly, the Petitioner has to avail the remedy available

under

(i) Section 154(3) of Code of Criminal Procedure;

(ii) Section 156(3) of Code of Criminal Procedure and

(iii) Section 200 Code of Criminal Procedure.

(c) Thus, the remedy of the Petitioner does not lie before this Court either under Article 226 or Article 227 of The Constitution of India.

No order as to costs. Consequently, connected petitions are closed.