

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2015

CORAM

The Hon'ble Mr. Justice R.S.RAMANATHAN

CrI.O.P.No.1015 of 2015

C.Subathra Banu

...Petitioner

vs.

1. The State, rep. by
The Inspector of Police,
R11, Royala Nagar Police Station,
Ramapuram, Chennai - 600 089.

2. The Commissioner of Police,
Vepery, Egmore, Chennai- 600 007.

...Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to direct the first respondent/The Inspector of Police, R11, Royala Nagar Police Station, Ramapuram, Chennai - 600 089. to register a case against one Magesh and his henchmen on the complaint given by the petitioner, which was forwarded to the second respondent on 07.01.2015.

For Petitioner : Mr.S.Magimairaj

For Respondents : Mr.M.Maharaja
Additional Public Prosecutor

O R D E R

This petition has been filed seeking direction upon the respondent/Police to register a case on the basis of the petitioner's complaint, dated 07.01.2015.

2. The learned counsel appearing for the petitioner submitted that the petitioner is the tenant under the landlord by name Magesh and the petitioner is in occupation of the premises, bearing No.1/70, Gangai Amman Koil Street, Ramapuram, Chennai. As the petitioner's landlord attempted to vacate her by force, she filed suit in O.S.No.1 of 2015 on the file of District Munsif, Poonamallee for permanent

injunction, and also obtained an order of injunction in her favour, by taking out Interlocutory Application, I.A.No.4 of 2015, and the suit is pending. Thereafter, the said Magesh and his wife and others trespassed into her office, called her by cast name and abused her and also threatened her with dire consequences, if she does not vacate the premises. Thereafter, on 07.01.2015, when she came to her office at 8.00, a.m, she found that the lock was broken and law books and cash of Rs.1,27,000/- were found missing. Regarding the said incident, the petitioner has given a complaint before the respondent/Police. As the said complaint is not yet registered, the petitioner is before this Court, seeking for the aforesaid relief.

3. The learned Additional Public Prosecutor, representing the respondent/Police filed a status report, wherein, it is stated that, on the complaint given earlier by the petitioner, C.S..R.No.470 of 2014 was issued, and enquiry was conducted and the landlord informed that the petitioner was not his tenant and the petitioner vacated his premises in June, 2014. Enquiry further reveals that the petitioner and her husband were not occupying the premises, and the landlord/Magesh is running a provisional store in the premises from July, 2014 onwards. The said landlord also gave complaint on 07.01.2015, stating that, his wife was beaten and threatened by the petitioner and her husband, and that complaint was registered in C.S.R.No.6 of 2015. As a counteraction, the petitioner has given the present complaint, which has been given C.S.R.No.7 of 2015. As Civil Suit is pending between the parties, the parties are directed to seek remedy before the Civil Court. It is further stated in the status-report that, on 22.01.2015, the landlord has given complaint against the petitioner, stating that the petitioner and her husband broken up the shop and attacked his wife and the said complaint has been given C.S.R.No.20 of 2015. Pursuant to the same, both the parties were called for enquiry and the parties were advised to approach the Civil Court having regard to the pendency of the civil suit. The Additional Public Prosecutor, therefore, submitted that having regard to the above said facts, no criminal offence is made out and the parties were directed to approach the civil court to seek redressal.

4. I am unable to accept the contentions of the learned Additional Public Prosecutor. Admittedly, the petitioner filed O.S.No.1 of 2015, and obtained the order of injunction against the landlord. Thereafter, the petitioner has given complaint against the landlord, stating that the tenanted premises was damaged and articles were found missing. Having regard to the injunction order passed by the learned Magistrate, the first respondent is duty-bound to register a case and investigate the matter further, and without doing so, he cannot conduct investigation and direct the parties to

seek redressal before the civil court. If the respondent/Police, after enquiry finds that the allegations made by the petitioner in the complaint are not true, then, they shall refer the case as "mistake of fact". Hence, the first respondent is directed to follow the principles laid down by the Hon'ble Apex Court in re Lalita Kumari vs. Govt. of U.P. & others, reported in [2013 (4) Crimes 243 (SC)], and register a case on the complaint given by the petitioner, if cognizable offence is made out.

5. With the above observations, the Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
R11, Royala Nagar Police Station,
Ramapuram, Chennai - 600 089.
2. The Commissioner of Police,
Vepery, Egmore, Chennai- 600 007.
3. The Public Prosecutor,
High Court, Madras.

+2cc's to Mr.S.Magimai Raj, Advocate, S.R.No.12137
+1cc to Mr.N.Vanaraj, Advocate, S.R.No.12096

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SV(CO)
CA(18/03/2015)

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