

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.27649 of 2015

P.Karuppasamy

... Petitioner

Vs

1. The Commissioner of Police,
Office of the Commissioner of Office,
Vepery, Chennai.
2. The Deputy Commissioner of Police,
T. Nagar Range,
T.Nagar,
Chennai 17.
3. State of Tamil Nadu,
Rep. by the Inspector of Police,
R-3, Ashok Nagar Police Station,
Ashok Nagar,
Chennai.
4. State of Tamil Nadu,
Rep. by the Inspector of Police,
R-4, Vadapalani Police Station,
Vadapalani, Chennai.
5. India Bulls Credit House Finance, Ltd.,
"Indiabullas House",
448-451, Udyog Vihar, Phase-V,
Gurgaon-1220166,
Haryana.

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C.
prayed to direct the respondents 1 to 4 not to harass the
petitioner.

For Petitioner : Mr.V.C.Selvasekaran

For respondents : Mr.C.Emalias,
Addl.Public Prosecutor

O R D E R

This petition has been filed to direct the respondents 1 to 4 not to harass the petitioner.

2. The case of the petitioner is that the 5th respondent has filed a private complaint as against this petitioner under Section 138 of the Negotiable Instruments Act before the Judicial Magistrate, Gorgoan, Haryana. In the said complaint, a non-bailable warrant has been issued as against the petitioner. But as per the recent judgment of the Honourable Supreme Court reported in Dashrath Rupsingh Rathod Vs. State of Maharashtra & another (2014(9) SCC 129), the complaint of dishonour of cheque can be filed only to the Court within whose local jurisdiction the offence was committed. That being the position, the 5th respondent has filed a complaint and obtained non-bailable warrant as against the petitioner from the Judicial Magistrate, Gorgoan, Haryana. By virtue of the non-bailable warrant, frequently, the respondent police are calling the petitioner and harassing him.

3. Learned counsel for the petitioner submitted that in view of the order passed by the Hon'ble Supreme Court in Dashrath Rupsingh Rathod Vs. State of Maharashtra & another (2014(9) SCC 129), the case has to be transferred to the Magistrate Court having jurisdiction where the cheque had got dishonoured. The case filed before the Judicial Magistrate, Gorgoan, is liable to be transferred to Chennai, and should have to be proceeded in accordance with law. He further submitted that the case filed by the 5th respondent was not transferred to Chennai and the same is still pending on the file of Judicial Magistrate, Gorgoan. He further submitted that a direction may be given to the respondents 1 to 4, not to harass the petitioner.

4. Learned Additional Public Prosecutor submitted that in pursuant to a non-bailable warrant issued by the Judicial Magistrate, Gorgoan, the respondent police are searching for the petitioner and there is no question of harassment.

5. Considering the submissions made on either side, this Court is of the opinion that when the non-bailable warrant is pending, this Court cannot give a direction as prayed for by the petitioner. The respondent police are bound to execute the warrant. Insofar as the other grievance of the petitioner that the Court of Gorgoan has no jurisdiction to entertain the complaint pursuant to the judgment of the Honourable Supreme Court made in Dashrath Rupsingh Rathod Vs. State of Maharashtra & another (2014(9) SCC 129) , this Court is of the opinion that

the petitioner has to work out his remedy by filing appropriate petition in the manner known to law. Hence, the criminal original petition is dismissed.

vsi

s/d-

Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1. The Commissioner of Police,
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Vepery, Chennai.
2. The Deputy Commissioner of Police,
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3. The Inspector of Police,
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R-3, Ashok Nagar Police Station,
Ashok Nagar,
Chennai.
4. The Inspector of Police,
State of Tamil Nadu,
R-4, Vadapalani Police Station,
Vadapalani, Chennai.
5. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.V.C.Selvasekaran, Advocate SR 63645

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