

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-02-2015

Coram

THE HONOURABLE MR. JUSTICE R.S. RAMANATHAN

Crl.O.P. No. 2852 of 2015

Sundari

... Petitioner/Complainant

Versus

1. The Director General of Police
(Law and Order)
Police Head Quarters
No.601, Dr. Radhakrishnan Salai
Mylapore, Chennai - 600 004
 2. The Commissioner of Police
Greater Chennai
No.132, Commissioner Office Building
EVK Sampath Road, Vepery
Chennai - 600 007
 3. The Inspector of Police
J-1 Police Station
Saidapet, Chennai - 600 015
- ... Respondents/Respondents.

Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the respondents to register first information report on the complaint dated 30.09.2014.

For Petitioner : Mr. K. Ashok Kumar
For Respondents : Mr. M. Maharaja
Additional Public Prosecutor

ORDER

The petitioner has come forward with this Criminal Original Petition praying to issue appropriate direction to the respondents herein to register a case on the basis of her complaint dated 30.09.2014.

2. The learned counsel for the petitioner would submit that already a suit in O.S. No. 7298 of 2007 was filed by the petitioner against Kasturi, Jaya, Suguna and Gajarajan praying for a bare injunction in which an order of interim injunction was granted. Ultimately, the suit itself was decreed on 09.01.2009 by the file of

learned VI Assistant Judge, City Civil Court, Madras. Later, the petitioner also filed O.S. No. 4000 of 2014 on the file of learned V Assistant Judge, City Civil Court, Madras against Sundari and three others for a declaration to declare that the settlement deed dated 22.01.2013 registered as document No. 102 of 2013 on the file of Sub-Registrar, T. Nagar executed by late. Adilakshmi in favour of first defendant/Sundari is null and void and for other reliefs prayed for therein. During the pendency of the suit, on 30.09.2014, it was alleged that the said Sundari along with others have broke open the door put up in her house and committed criminal trespass. Immediately, the petitioner has given a complaint to the third respondent-police but no action has been taken. It is further stated by the learned counsel for the petitioner that on 06.01.2014, the petitioner has also sent complaint to the Honourable Chief Minister's Grievance Cell; Chairman, State Human Rights Commission and to the respondents reiterating her earlier complaint. In the said complaint dated 06.01.2014, it was stated by the petitioner that the house bearing Door No.326, Appavu Nagar, Saidapet is in her possession and the aforesaid Sundari and others have committed criminal trespass when she was away from her house. It was further complained that Sundari and others have also thrown out the articles kept in her house, however, the respondents failed to take any action on the basis of such complaint dated 06.01.2014. Therefore, the petitioner has filed the present Criminal Original Petition.

3. The learned Additional Public Prosecutor appearing for the respondents, on instructions, submitted that on receipt of the complaint from the petitioner, an enquiry was conducted by the third respondent and the complaint was closed as a mistake of fact especially when the parties to the complaint have already filed civil suit and the suit in O.S. No. 4000 of 2014 filed by the petitioner is pending.

4. It is seen from the plaint in O.S. No. 7298 of 2007 that it was filed for a bare injunction against Kasturi, Jaya, Suguna and another restraining them from alienating or encumbering the property involved in the suit. The said suit was decreed in favour of the petitioner herein on 09.01.2009. Though the petitioner claimed to be in possession of the suit property, in the cause title of the plaint in O.S. No. 7298 of 2007, it was stated that the plaintiff, the petitioner herein, is residing at Block No.10, Venkatapuram Taluk Office Road, Saidapet, Chennai - 600 015, which is not the property covered in the suit in O.S. No. 7298 of 2007. As mentioned above, the subsequent suit in O.S. No. 4000 of 2014 was filed praying for a declaration to declare that the settlement deeds dated 22.01.2003 and 16.04.2007 are null and void and not binding on the plaintiff. The properties involved in both the suits are one and the same. Further, in the complaint dated 30.09.2014, the petitioner admitted that she is residing with her daughter at Block No.10, Venkatapuram. Saidapet. Further, in the said complaint, it is stated that the petitioner has

not given the description of the property which was alleged to have been broken open by Kasturi and others. Having regard to the above, the third respondent has rightly closed the complaint given by the petitioner as mistake of fact and it does not calls for any interference by this Court.

5. Accordingly, the Criminal Original Petition is dismissed.

rsh

-s/d-

Assistant Registrar (CS-II)

Dt:11/3/2015

True Copy

Sub-Assistant Registrar

To

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(Law and Order)
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4. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.K.Ashok Kumar, Advocate SR 10568

gr(co)
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