

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Crl.O.P.No.1066 of 2016

1.Lingamoorthy
2.Vibushanam
3.S.Ranganathan Petitioners

Vs.,

1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.
2.The Inspector of Police (Law and Order),
V4, Rajamangalam Police Station,
Chennai-99.
3.V.Ganesan,
S/o.S.Veerappan,
16B, Shanthi Nagar,
Korattur, Chennai-600 080. Respondents

Prayer: Petition filed under Section 482 of the Criminal Procedure Code praying for a direction directing the respondents-Police not to harass the petitioners in the name of enquiry on the complaint being C.S.R.No.65 of 2015 given by the 3rd respondent on 04.05.2015.

For Petitioners : Mr.P.Chandrasekar

For Respondents : Mr.C.Emalias, APP (For R1 & R2)
Mr.S.Vijayakumar (For R3)

ORDER

This petition has been filed by the petitioners praying to direct the respondents 1 & 2 not to harass the petitioners in the name of enquiry on basis of the complaint in C.S.R.No.65 of 2015 given by the 3rd respondent on 04.05.2015.

2.In the affidavit filed in support of this petition, it has been stated by the petitioner, inter alia, as follows:-

2-1. There is civil dispute pending between the petitioners herein and the 3rd respondent in respect of the property in S.No.143/2A1A Korattur Village, Thathankuppam, Chennai. According to the petitioners, they are in possession of the subject property and they let out the subject property to one M/s.Vinayaga Marbles, owned by one Chandra Obula Reddy. While so, the 3rd respondent herein has lodged a complaint on 04.05.2015 with the 2nd respondent as against the said Chandra Obula Reddy and others, stating that he is the owner of the said property viz., S.No.143/2A1A Korattur Village, Thathankuppam, Chennai; that when he visited his property, he was threatened by the accused persons. The 2nd respondent-police received the complaint and assigned C.S.R.No.65 of 2015.

2-2. It is further case of the petitioners that the 3rd respondent had already filed two criminal original petitions before this Court for the same relief, one in Crl.O.P.No.20947 of 2015 and another one in Crl.O.P.No.20948 of 2015. When both the criminal original petitions were posted on 03.09.2015, the 3rd respondent herein obtained an order from this Court in Crl.O.P.No.20947 of 2015, directing the respondents-Police to register the complaint. On the same day, the 3rd respondent herein got adjournment in respect of the petition in Crl.O.P.No.20948 of 2015. Thereafter, when Crl.O.P.No.20948 of 2015 came for hearing on 20.11.2015, the 3rd respondent herein got the same relief, with the sole intention to harass the petitioners herein.

2-3. It is further case of the petitioners that the complaint was given by the 3rd respondent in respect of the subject property admeasuring 38 cents in S.No.143/2A1A, Korattur Village, Thathankuppam, Chennai. In respect of the said property, suits are pending between the parties. In fact, the 3rd respondent filed O.S.No.123 of 2007 and the petitioners herein along with others filed O.S.No.175 of 2008 before Sub-Court, Poonamallee. By a common judgment, the suit filed by the 3rd respondent herein was dismissed and the suit filed by the petitioners herein was decreed on 28.10.2009, against which the 3rd respondent herein had preferred appeals in A.S.Nos.64 & 65 of 2009 before the learned III Additional District Judge, Thiruvallur. Both the said appeals were allowed on 31.07.2012. Aggrieved over the same, the petitioners herein preferred appeals in S.A.Nos.1082 & 1083 of 2012 before this Court and both the second appeals were dismissed by this Court on 27.02.2015. Aggrieved over the same, the petitioners have preferred SLP.Nos.17883 & 17884 of 2015 before the Hon'ble Supreme Court and in the said SLPs, notice was ordered to the 3rd respondent herein. When that being so, now according to the petitioner herein, by getting direction from this Court, the 3rd respondent is putting pressure on the 2nd respondent-Police to initiate action against the petitioners herein and the 2nd

respondent-Police is also harassing the petitioners to handover the possession of the subject property to the 3rd respondent. Hence, the petitioners have come forward with the present petition before this Court.

3.It is submitted by the learned counsel for the 3rd respondent that in fact, the possession of the subject property is only with the 3rd respondent. In support of his contention, the learned counsel for the 3rd respondent invited the attention of this Court to the finding rendered by this Court in S.A.Nos.1082 & 1083 of 2012, which read as follows_

"44.Now, turning to the possession, it is in evidence that the first respondent has raised compound wall on all four sides, which has been confirmed by the Commissioner's report. These compound walls were raised in the year 1992 as soon as the purchase was made. This also goes to prove that the first respondent is in possession. Absolutely, there is no evidence to show that the appellants are in possession and enjoyment of the suit property. Therefore, the first appellant Court was right in reversing the decree and judgment of the trial Court in O.S.No.175 of 2008. Further, the first appellate Court has rightly held that the first respondent is in possession and enjoyment of the suit property and therefore, the First Appellate Court was right in reversing the decree and judgment of O.S.No.123 of 2007 so as to grant the decree as prayed for. In nutshell, I hold that the settlement deed executed by Mrs.Muniammal under Ex.B.3 and the sale deed under Ex.B.7 are void and I also hold that the first respondent herein is entitled for injunction as prayed for by him."

4.It is further submitted by the learned counsel for the 3rd respondent that it is incorrect to state that two criminal original petitions had been filed by him for the same relief. In fact, one criminal original petition was filed by the 3rd respondent for registration of the complaint and another one was filed seeking police protection. Moreover, the complaint was not lodged as against the petitioners herein and it was lodged only as against the said Chandra Obula Reddy, who is running marble business in the name and style of M/s.Vinayaga Marbles, in the subject property. The learned counsel for the 3rd respondent has further submitted that in the SLP, the Hon'ble

Supreme Court has ordered only notice for admission; therefore, there cannot be any bar for the respondent-police to enquire into the complaint. Thus, the learned counsel for the 3rd respondent sought for dismissal of the petition.

5.The learned Additional Public Prosecutor has submitted that it is incorrect to state that the respondents-Police are insisting the petitioners to hand over the possession of the subject property to the 3rd respondent; that only with regard to the threat made by the petitioners and the said Chandra Obula Reddy against the 3rd respondent, the respondents-Police are conducting enquiry. Thus, the learned Additional Public Prosecutor submitted that there is no intention on the part of the respondents-police to harass the petitioners.

6.In view of the submission made by the learned Additional Public Prosecutor, I am of the opinion that there is no need to give any direction in this petition. Hence, recording the submission made by the learned Additional Public Prosecutor, this criminal original petition is closed.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

ssv

To,

- 1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.
- 2.The Inspector of Police (Law and Order),
V4, Rajamangalam Police Station,
Chennai-99.
- 3.The Public Prosecutor,
High Court, Madras.

1 cc to Mr.S. Vijayakumar, Advocate, Sr. 9176
2 ccs to Mr.P. Chandrasekar, Advocate, sr. 9286

Cr1.O.P.No.1066 of 2016

UG (CO)
kk 16/2