

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Crl.O.P.Nos.11789 & 11790 of 2015

M.Thiagarajan

... Petitioner in both Crl.OPs

Vs.,

1.The Commissioner of Police,
Commissioner Officer,
Vepery, Chennai-7.

2.The Inspector of Police,
S-15, Selayur Police Station,
Selayur Village,
East Tambaram, Chennai. ... Respondents in both Crl.OPs

Prayer in Crl.O.P.No.11789 of 2015: Petition filed under Section 482 of the Criminal Procedure Code praying to direct the respondents-Police to provide police protection to the petitioner based on the FIR in Crime No.112/2015 on the file of the 2nd respondent-Police.

Prayer in Crl.O.P.No.11790 of 2015: Petition filed under Section 482 of the Criminal Procedure Code praying to direct the 1st respondent to transfer the investigation of the case in Crime No.112/2015 on the file of the 2nd respondent-Police to any other police for proper investigation.

For Petitioner : M/s.Achari and Antoni
For Respondents : Mr.C.Emalias, APP

ORDER

Both the above criminal original petitions have been filed by the same petitioner. Crl.O.P.No.11789 of 2015 has been filed by the petitioner seeking to direct the respondents-Police to provide police protection to the petitioner. Crl.O.P.No.11790 of 2015 has been filed by the petitioner seeking to transfer the investigation in Crime No.112 of 2015 from the file of the 1st respondent-Police to some other investigating agency.

2.Since the issues involved in both the petitions are inter-related, these petitions are disposed of by the common order.

3.It is the case of the petitioner that one Mr.Vijayarangam, residing at Plot No.43, Saraswathi Nagar, Viraivu, Otteri, Vandalur, had constructed his house over the compound wall of the petitioner's house in violation to the plan and without obtaining proper approval, without leaving 5 ft space. The petitioner made complaints to Tambaram Municipality about the deviation and unauthorized construction of the said Vijayarangam. The petitioner has also filed W.P.No.22798 of 2013 before this Court seeking to remove the unauthorized construction and the said writ petition was ordered on 22.11.2013. In the meantime, the said Vijayarangam sold the said property to the accused Dharmaraj. After purchasing the said house by the accused Dharmaraj, the said unauthorized construction was demolished by the Tambaram Municipality. Hence, the accused Dharmaraj and his family members were in vengeance against the petitioner. In pursuance of the same, the accused Dharmaraj's son trespassed into the petitioner's house on 17.04.2015 at about 10.30 pm when the petitioner and his wife were not in the home. This fact was informed by the petitioner's tenant in the ground floor to the petitioner's wife on 18.04.2015 and the petitioner came to know about the same from his wife. When the petitioner enquired the said Dharmaraj on 19.04.2015 at about 8.30 am, the accused attacked him and threatened that he would murder the petitioner. Therefore, the petitioner lodged a complaint on the same day with the 2nd respondent-Police; whereas, the 2nd respondent-Police informed the petitioner that the said Dharmaraj has given a complaint as against the petitioner herein as if the petitioner has scolded him. The 2nd respondent-Police refused to issue CSR for the complaint given by the petitioner. Further, the 2nd respondent-police threatened the petitioner to register FIR against the petitioner on the basis of the complaint given by the accused Dharmaraj, if the petitioner does not go for compromise. According to the petitioner, the 2nd respondent-Police is acting hand in glove with the accused Dharmaraj. Thereafter, the petitioner gave a complaint to the Commissioner of Police/1st respondent-Police. On the direction given by the 1st respondent, the 2nd respondent has registered a case in FIR in Crime No.112 of 2015 on the basis of the petitioner's complaint. However, the 2nd respondent-Police is not investigating the matter properly. Hence, the petitioner has come forward with the present petition, one for transferring the investigation to some other agency and another for giving protection to him and his family.

4.When the matter is taken up for consideration, the learned Additional Public Prosecutor submitted that the

complaint given by the petitioner was enquired and it was already closed and RC report was also filed before the concerned Judicial Magistrate. Thus, he opposed to give any direction to the respondents-Police.

5.However, the learned counsel for the petitioner denies the submission made by the learned Additional Public Prosecutor. It is contended by the learned counsel for the petitioner that cognizable offence has been made out by the petitioner in the complaint, but, inspite of the same, the 2nd respondent-Police has closed the complaint.

6.Irrespective of the submissions made on either side, I am of the opinion that since the complaint has already been closed and RC report has also been filed before the concerned Judicial Magistrate, now the prayers sought for by the petitioner in the present petitions cannot be entertained. Hence, these Criminal Original Petitions are dismissed. However, the petitioner is at liberty to file protest petition, to the RCS filed by the Respondent Police if he is so advised.

-s/d-

Assistant Registrar(CCC)
dt:29/01/2016

True Copy

Sub-Assistant Registrar

ssv

To,

1.The Commissioner of Police,
Commissioner Officer, Vepery, Chennai-7.

2.The Inspector of Police,
S-15, Selayur Police Station,
Selayur Village, East Tambaram, Chennai.

3.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.Achari and Antoni Associates Advocate
sr.2064

CrI.O.P.Nos.11789 & 11790 of 2015

sk(co)
aa01/02/2016