

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.30350 of 2015

V.Krishnakumari

... Petitioner

Vs

1.The Commissioner of Police,
Coimbatore.

2.The Assistant Commissioner of Police,
Coimbatore South Zone,
Kuniyamuthur Post,
Coimbatore 641 008.

3.The Inspector of Police,
Kuniyamuthur Police Station,
Kuniyamuthur Post,
Coimbatore.

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking a direction to the respondents to register the case in pursuant to the complaint made by the petitioner on 03.09.2015.

For Petitioner : Mr.H.Nazirudeen

For Respondents : Mr.C.Emalias,
Additional Public Prosecutor

ORDER

The present criminal original petition has been filed seeking a direction to the respondents to register a case based on the complaint of the petitioner dated 03.09.2015.

2.The case of the petitioner is that the petitioner is living with her husband in a house bearing Plot No.39, Brindavan Circle South, Kuniyamuthur Post, Coimbatore for the past 18 years. The petitioner is having two sons viz., V.Sathishkumar and V.Sasikumar. Both of them are working in New Delhi and abroad. There is a common space measuring to an extent of 3.5 feet width, out of which, the petitioner's sons are holding interest to the extent of 2 feet and the adjacent owner viz., one Mr.C.K.Basheer holds right to the extent

of 1.5 feet. Considering the situation of the aged petitioner and ailing husband and also their sons were staying far away in furtherance of their respective employment, the said C.K.Basheer used to pick up unnecessary quarrels with an ill-intention to engulf the passage of 2 feet belonging to the sons of the petitioner. Even otherwise, the said Basheer did not possess any intention to maintain cordiality and used to find fault with the petitioner. Hence, the petitioner, who is the power of attorney holder of her sons, made a complaint to the respondent police. On receipt of the complaint given by the petitioner, C.S.R.No.36 of 2010 has been assigned and the police also warned the neighbour not to indulge in unlawful activities in future. Thereafter, the said neighbour in spite of warning given by the police, made several attempts to encroach upon the common pathway. Hence, the petitioner filed a suit in O.S.No.1578 of 2015 before the first Additional District Munsif Court, Coimbatore seeking for the relief of declaration and for permanent injunction. The said suit is still pending. Even thereafter, the said C.K.Basheer and his wife started abusing the petitioner in filthy language and hence, the petitioner's husband admitted in KMCH Hospital, Coimbatore for heart pain due to the unbearable mental agony. Taking advantage of the petitioner's absence and in view of the pending suit, the said Basheer started to put up a compound wall encroaching the entire extent. When the petitioner questioned the same, the said C.K.Basheer along with his relatives pushed the petitioner and abused her in a filthy language and also threatened her with dire consequences. Hence, the petitioner lodged a complaint before the respondent-police on 03.09.2015. Since no action was taken so far, the petitioner has come forward with the present criminal original petition.

3. I have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

4.The learned Additional Public Prosecutor submitted that based on the complaint given by the petitioner, enquiry has been conducted and the same has been closed on 22.12.2015 as civil in nature. The copy of the closure report has been produced for perusal of the Court.

5.The learned counsel appearing for the petitioner denies the same and he sought for a direction.

6. Since the complaint of the petitioner has already been closed, the prayer that has been made in this criminal original petition cannot be granted. Hence, the present criminal original petition is dismissed. However, the petitioner is at liberty to work out his remedy in a manner known to law, if she is so advised.

7.This criminal original petition is disposed of accordingly.

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Sd/-

Assistant Registrar (Judicial)

/TRUE COPY/

Sub-Assistant Registrar

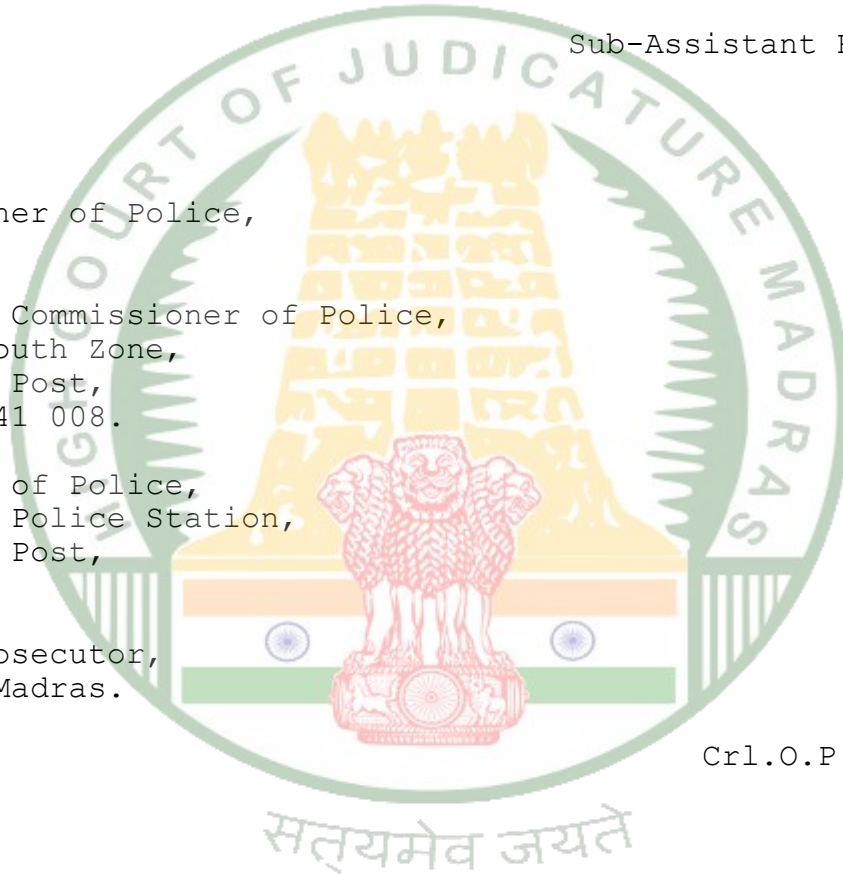
To,

1.The Commissioner of Police,
Coimbatore.

2.The Assistant Commissioner of Police,
Coimbatore South Zone,
Kuniyamuthur Post,
Coimbatore 641 008.

3.The Inspector of Police,
Kuniyamuthur Police Station,
Kuniyamuthur Post,
Coimbatore.

4.The Public Prosecutor,
High Court, Madras.



Cr1.O.P.No.30350 of 2015

AD(CO)

MK : 26/01/2016

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