

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

CrI.O.P.No.2036 of 2016 and
CrI.M.P.No.2009 of 2016

Mangudi

.. Petitioner

Vs.

State by
Inspector of Police,
E9, Thazhambur Police station,
Kancheepuram District

.. Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the respondent to register a case based on the petitioner's complaint dated 03.01.2016.

For Petitioner : Mr.M.R.Jothimanian for
Mr.K.Balu

For Intervenor : Mr.D.Magesh

For Respondent : Mr.C.Emalias
Additional Public Prosecutor

O R D E R

The petitioner has come forward with this petition seeking for a direction to the respondent to register a case based on the petitioner's complaint dated 03.01.2016.

2. The learned counsel for the petitioner submits that petitioner has lodged a complaint stating that he is a tenant under the proposed accused / Prithivirajan and running a Restaurant under the name and style of "Hotel Yogambigai". The tenancy period was four years and during the subsistence of the tenancy period, the petitioner was directed to vacate the premises or to pay a sum of Rs.8,00,000/- as additional advance. The petitioner was not willing to pay the additional advance and he did not pay the same. Therefore, the henchmen of the said proposed accused had assaulted the employees of the petitioner's Restaurant and forcibly took away the cash. At that time, one Rani, who was an employee was also assaulted. At that time, she was pregnant and she was admitted in the hospital and treated as inpatient for ten days. Thereafter, the petitioner has lodged complaint before the respondent police narrating the said facts.

Though the petitioner's complaint was assigned with CSR No.4 of 2016, neither the petitioner examined nor a case has been registered. Therefore, the petitioner has come forward with this petition for the above stated relief.

3. Resisting the same, the learned Additional Public Prosecutor submits that after receipt of the petitioner's complaint CSR No.4 of 2016 has been assigned, enquiry has been conducted and it was closed on 08.02.2016. He fairly conceded that closure report has not been served on the petitioner and today, the closure report is served.

4. Considering the rival submissions made on either side and on perusal of the documents placed on record, the complaint itself shows that the petitioner is a tenant under the proposed accused and during the subsistence of the tenancy period, he demanded Rs.8,00,000/- or to vacate the premises, since the petitioner is not ready to pay, the proposed accused damaged the hotel articles, forcibly took away the cash and assaulted the employees of the Restaurant. One Rani, who is said to be pregnant was also assaulted by the proposed accused. Further, in the medical report vide AR.No.58109116, it is specifically stated that Rani, w/o Kumar was assaulted by 4 or 5 persons at the work place at 12.00 p.m. in Hotel Yogambigai. It is further stated that the said Rani was pregnant with a complaint of abdomen pain and unable to perceive fetus movements. But, the respondent without considering the same, has closed the complaint. Hence it is a fit case to set aside the closure report dated 18.02.2016 and it is hereby set aside. The respondent police is directed to conduct enquiry and follow the dictum laid down in Lalitha Kumari vs. Govt. of U.P & others [2013 (4) Crimes 243 (SC) and register a case, if any cognizable offence is made out.

5. With the above observation, this Criminal Original petition is disposed of. Consequently connected miscellaneous petition is also closed.
ssd

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. State by
Inspector of Police,
E9, Thazhambur Police station,
Kancheepuram District

2. The Public Prosecutor
High Court, Chennai.

+ 1 cc to Mr.K.Balu, Advocate SR 17131

skv(co)
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Crl.M.P.No.2009 of 2016



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