

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.255 of 2016

P.Anandan

...Petitioner

Vs

1. The State represented by
The Inspector of Police,
Palakodu Police Station,
Pallakodu Taluk,
Dharmapuri District.

2. The Superintendent of Police,
The Office of the Superintendent of Police,
Dharmapuri District. ...Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking a direction to the respondents herein not to harass the petitioner Mr.P.Anandan and his wife and other family members by insisting them to hand over the possession of the said suit property situate at S.No.789, Jerthalav Village, Palacode Taluk, Dharmapuri District admeasuring an extent of 2 acres, or in any other manner.

For Petitioner : ***Mr.A.UmaShankar**
for M/s.S.P.Arthi
For Respondent : Mr.M.Mohamed Riyaz,
Govt. Advocate (Crl. Side)

O R D E R

The present criminal original petition has been filed to direct the respondents herein not to harass the petitioner and his wife and other family members by insisting them to hand over the possession of the said suit property or in any other manner.

2. The petitioner is the resident of Makkankottai Village, Palacode Taluk, Dharmapuri District. The case of the petitioner is that on 26.08.2015, at around 10.30 A.M., while he had gone to attend a marriage function, all of a sudden the accused persons trespassed into the lands situate at Survey No.789, Jerthalav Village, Palacode Taluk, Dharmapuri District admeasuring an extent of 2 acres. The said land originally belonged to one N.Anandan, who under an agreement of sale dated

15.12.2004 offered to convey the said property to the petitioner. The consideration agreed was Rs.3,65,000/- per acre and an advance of Rs.75,000/- was paid on the same day. The possession of the lands were handed over to the petitioner by the vendor after receiving the advance payment. The petitioner planted the coconut trees and developed the lands and doing the business of selling coconuts for his livelihood. Further the petitioner availed the agriculture loan from the cooperative bank by mortgaging the crops and developed the land. In the meantime, the balance consideration was paid in due course of time and till date, the possession and enjoyment of the said lands are with the petitioner.

3. Even after the receipt of full sale consideration and having parted with the possession pursuant to the receipt of such consideration, the vendor has not come forward to execute the sale deed. The vendor demanded more money and the negotiations were going on with the petitioner. In the meanwhile, the vendor filed a suit in O.S.No.175 of 2010 before the District Munsif Palacode with false and frivolous allegations and the said suit was erroneously decreed and the appeal against the judgement and decree of the learned Munsif has been filed before the Sub Court, Dharmapuri in A.S.No.10 of 2013. The petitioner had paid a sum of Rs.2,30,000/- before the Sub Court and filed a suit in O.S.No.8 of 2014 on the file of the Sub Judge, Dharmapuri for specific performance of the sale agreement, which is also pending. In the meanwhile, the vendor of the petitioner colluded with his friend and executed a sale deed in favour of his friend. The vendor of the petitioner and his friend along with 200 henchmen forcefully trespassed into the lands in the possession of the petitioner with earth movers and excavators with the intention to bulldoze full grown and fruit yielding coconut trees in the property. When the petitioner's wife and her driver, who were there at that time, raised their voice and objected their illegal acts, they pushed down the petitioner's wife and her driver and assaulted them brutally and they threatened the petitioner's wife with dire consequences and they also ransacked a substantial portion of the property. Immediately the petitioner's wife lodged a complaint against the accused persons before the first respondent and on the basis of the said complaint, a case was registered in Crime No.404 of 2015 for the offences punishable under sections 147, 294(b), 323, 506(ii) of IPC and Section 3 of PPDL Act. On the other hand the first respondent had arrested the petitioner and his brother Mr.P.Muniappan and remanded them to judicial custody in Crime No.405 of 2015 for the offences under section 294(b), 323 and 506(i) IPC and Sec.3 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act and later the petitioner and his brother came out on bail.

4. The first respondent's subordinates are intimidating the petitioner with dire consequences and threatened to foist cases against the petitioner. The first respondent also registered a case in Crime No.419 of 2015 under sections 147, 448 and 506(ii) of IPC on the basis of the complaint given by one Singaravelan against the petitioner, his brother and one Murali. The first respondent is harassing the petitioner under the guise of enquiry and threatening the petitioner that cases will be foisted against him. On the information sent by the first respondent, the RDO, Dharmapuri has initiated 145 Cr.P.C. proceedings against both the parties and issued summons and the 145 Cr.P.C. proceedings is pending. The first respondent has not taken any action against the complaint lodged by the wife of the petitioner. On the other hand, the first respondent is harassing the petitioner and they are misusing their power and pressurizing the petitioner to hand over the possession of the lands to the accused persons. Hence the petitioner has come forward with the present Criminal Original Petition.

5. I have heard the learned counsel appearing for the petitioner as well as the learned Government Advocate (Criminal Side) appearing for the respondent.

6. When the matter was taken up for consideration, the learned Government Advocate (Criminal Side) submitted that it is incorrect to state that the first respondent is insisting the petitioner to hand over the possession of the property. In fact the counter petitioners have lodged a complaint against the petitioner and his brother and the same has been registered in Crime No.405 of 2015 for the offences under sections 294(b), 323, 506(ii) IPC and Section 3 of TNPPDL Act. Only in order to avoid enquiry the petitioner has filed this petition. Otherwise, absolutely there is no intention on the part of the first respondent to insist the petitioner to hand over the possession of the property.

*** "Further, there is also no intention on the part of the respondent-Police to harass the petitioner during the course of investigation."**

***7. In view of the Submission of the learned Government Advocate (Criminal Side) that there is also no intention on the part of the respondent-Police to harass the Petitioner during the course of investigation, I am of the opinion that there is no need to give any specific direction in this petition.**

8. Recording the submissions of the learned Government Advocate (Criminal Side), this Criminal Original Petition is closed. However, the petitioner is directed to cooperate with the investigation.

sd/-

Assistant Registrar(CO)

***Para 6 & 7 Amended as per order
of this Court dated 07.03.2016
and made therein**

-s/d-

**Assistant Registrar(CS-II)
dt:22/03/2016**

/ true copy /

Sub-Assistant Registrar

vrc

To

1. The Inspector of Police, **(To be Substituted to the order
Palakodu Police Station, (already despatched on 25.01.2016)
Pallakodu Taluk,
Dharmapuri District.**
2. The Superintendent of Police,
The Office of the Superintendent of Police,
Dharmapuri District.
3. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.P.Arthi Advocate. SR.NO.2730

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JD 22/01/2016
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