

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on : 05.07.2016

Orders pronounced on : 19.07.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Crl.O.P.Nos.4486 & 11652 of 2016

R.Sivasubramaniam ... Petitioners in both Crl.O.Ps.

Vs.

State by:

- 1.The Commissioner,
Vigilance and Anti-Corruption,
Greenways Road, Adayar,
Chennai-20.
- 2.The Superintendent of Police,
Tiruppur District, Tiruppur.
- 3.Kovarthanambigai,
Sub-Inspector of Police,
Kumaralingam Police Station,
Kumaralingam,
Madathukulam Taluk,
Tiruppur District.
- 4.Venkidupathy,
Special Sub-Inspector of Police,
Kumaralingam Police Station,
Kumaralingam,
Madathukulam Taluk,
Tiruppur District.
- 5.The Deputy Superintendent of Police,
Udumalpet,
Tiruppur District.

... Respondents 1 to 4 in both Crl OPs
... R5 in Crl.O.P.11652/2016

Prayer in Crl.O.P.No.4486 of 2016: Petition filed under Section 482 of Cr.P.C., praying to direct the respondents 1 & 2 to conduct proper enquiry regarding with corrupt practice adopted by the respondents 3 & 4 by misusing their powers in so far relates to Crime No.5 of 2016 on the file of the Inspector of Police, Kumaralingam Police Station, Kumaralingam, Madathukulam Taluk, Tiruppur District.

Prayer in CrI.O.P.No.11652 of 2016:- Petition filed under Section 482 of Cr.P.C., praying to direct the respondent to register FIR against the named said persons on the basis of the complaint lodged by the petitioner on 22.02.2016.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.P.Govindarajan, APP

COMMON ORDER

The present criminal original petitions have been filed by the petitioner praying to direct the respondents 1 & 2 to conduct proper enquiry in respect of the corrupt practice adopted by the respondents 3 & 4, in registering a case in Crime No.5 of 2016 against the petitioner herein; and also to direct the respondents-Police to register an FIR against the named said persons on the basis of the complaint lodged by the petitioner on 22.02.2016.

2.In the affidavits filed in support of the above petition, it has been averred by the petitioner as follows:-

The petitioner's grand-father Chennimalai Gounder, while alive, was enjoying his ancestral properties and the self-acquired properties. The said Chennimalai Gounder had only one son viz. Ramasamy Gounder, who married the petitioner's mother Karupathal. But, the petitioner's mother died after seven day of the petitioner's birth. Hence, the petitioner's father married the petitioner's mother's sister Ponjalathal. Since the said Ponjalathal did not take care of the petitioner, the petitioner was brought up by his grand-father and grand-mother. The said Ponjalathal, second wife of the petitioner's father, gave birth to four daughters and one son. The petitioner's father was suffering from psychiatric problem. Taking advantage of the ill-health condition of the petitioner's father, his second wife's daughters and son prepared a forged Will in favour of them. When the petitioner came to know about the same, the petitioner filed a suit for partition in O.S.No.241 of 1999 on the file of the Sub-Court, Coimbatore and obtained a judgment and decree in his favour, in which a share of 8/28th share in the properties of the petitioner's father was allotted to the petitioner. Aggrieved over the same, an appeal was filed by the said four daughters and son of the petitioner's step mother, in A.S.No.61 of 2007, but the said appeal was dismissed by the District Court, Coimbatore. Aggrieved over the same, they filed Second Appeal in S.A.No.335 of 2010 before this Court and the said Second Appeal was also dismissed by this Court and review petition filed in R.P.No.115 of 2015 was also dismissed by this Court. On the basis of the decree and

judgment passed by the Trial Court, the petitioner filed an application for appointment of an Advocate Commissioner to partition the suit properties. But, having failed to succeed in all the legal proceedings, the petitioner's step mother's daughters and son, by colluding with the respondents 3 & 4 herein, started to threaten the petitioner to withdraw the application filed by him before Sub-Court for partition of the suit properties. When the petitioner refused to do so, on the instigation of the petitioner's step mother's daughters and son, the respondents 3 & 4 arrested the petitioner and his son on the false complaint lodged by them and registered a case in Crime No.5 of 2016, alleging that the petitioner entered into the suit properties and threatened them. It is further stated by the petitioner that at the time of arrest, when the petitioner and his son produced a copy of the order passed by this Court, the respondents 3 & 4 stated that the petitioner's step mother's daughters and son gave a sum of Rs.5 lakhs to them for arresting the petitioner and his son. The respondents 3 & 4 had also used unparliamentary words against the petitioner and his son. Hence, the petitioner has also lodged complaints before respondents 1 & 3 on 10.02.2016 & 22.02.2016. Since no action was taken on the petitioner's complaints, the petitioner has come forward with the present petitions before this Court for the relief as stated supra.

3. When the matter was taken up for consideration, the learned counsel for the petitioner made a detailed submission, reiterating the contentions raised in the affidavit to the present petitions.

4. But, the learned Additional Public Prosecutor, by filing detailed counters, contended that the dispute between the petitioner and his step mother's daughters & son, is purely civil in nature. The complaints given by the petitioner were forward to the Superintendent of Police, Tiruppur District and after enquiry, the Enquiry Officer has concluded that the allegations levelled against the respondents 3 & 4 are vexatious and false; hence, the complaints given by the petitioner were closed.

5. Keeping the submissions made on either side, I have carefully gone through the materials available on record.

6. It is the contention of the petitioner that in respect of a civil dispute between the petitioner and his step mother's daughters & son, the respondents 3 & 4 have registered a false complaint against the petitioner. In this regard, the petitioner has also made an allegation of corruption against the respondents 3 & 4, to the superior officers. Now, after conducting enquiry, the complaints given by the petitioner were closed. Once the complaint given by the petitioner was closed,

the prayer of the petitioner in these petitions to give direction to the respondents-Police, cannot be entertained. The petitioner has to work out his remedy before the appropriate forum in the manner known to law. Hence, the present petitions are liable to be dismissed.

Accordingly, the criminal original petitions are dismissed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To,

- 1.The Commissioner,
Vigilance and Anti-Corruption,
Greenways Road, Adayar,
Chennai-20.
- 2.The Superintendent of Police,
Tiruppur District, Tiruppur.
- 3.The Deputy Superintendent of Police,
Udumalpet, Tiruppur District.
- 4.The Public Prosecutor,
Madras High Court, Madras.

+1cc to the Public Prosecutor Sr.40614

सत्यमेव जयते

CrI.O.P.Nos.4486 & 11652 of 2016

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srg 29/07/2016

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