

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.No.6034 of 2016

R.Subramanian

.. Petitioner

Vs.

1.The Deputy Superintendent of Police,
Gobichettipalayam Taluk,
Erode District.

2.The District Superintendent of Police,
Erode.

.. Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the 1st respondent, Deputy Superintendent of Police, Gobichettipalayam to register a case against (1) Manimuthu alias Kumaraswami, son of Karuppa Moopan (2) Devi, W/o.Manimutha alias Kumaraswami (3) Duraisami alias Venkittusami, S/o.Karuppa Moopan (4) Sakuntala, W/o.Duraisami alias Venkiittusami and (5) Selvasami, S/o.Karuppa Moopan, all residents of Unit Nagar, Goundan Thottam, Gobichettipalayam Taluk, Erode District, on the petitioner's complaint dated 13.01.2016 and file an FIR under Sections 447, 426 and 506(ii) of I.P.C. and take action in accordance with law.

For Petitioner : Mr.M.V.Krishnan

For Respondents : Mr.C.Emalias
Addl.Public Prosecutor

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O R D E R

The petitioner has come forward with this petition seeking for a direction to the first respondent to register a case pertaining to the petitioner's complaint dated 13.01.2016.

2.The learned counsel for the petitioner submitted that on the basis of the complaint given by the petitioner dated 13.01.2016 stating that the counter petitioners have encroached upon his property by laying a pipe line and when it was

questioned by the petitioner, the counter petitioners threatened the petitioner. But the respondents have not shown any interest to enquire the matter and register the case. Hence, the petitioner has come forward with this petition for the above stated relief.

3. At this juncture, the learned Additional Public Prosecutor, on instructions, would submit that on the basis of the complaint given by the petitioner, enquiry has been conducted and even though the petitioner was served with notice and summons were affixed in the house of the petitioner, he had not appeared before the respondents for enquiry. He further submitted that the counter petitioners appeared before the respondent police and their statements have been recorded. He would also submit that the counter petitioners have filed a suit in O.S.No.255 of 2015 before the District Munsif Court, Gobichettipalayam, seeking declaration for use of pathway and the same is pending. Since the petitioner is not co-operating for enquiry, petition enquiry has been conducted and the same was closed on 07.02.2016 as it is civil in nature. Hence he prayed for dismissal of the petition.

4. Considered the rival submissions made on both sides and perused the typed set of papers.

5. On the basis of the complaint given by the petitioner, even though summons were affixed in the house of the petitioner, he has not appeared before the respondents for enquiry, which shows his lethargic attitude. Further, because of non-appearance of the petitioner, petition enquiry has been conducted and the same was closed on 07.02.2016. So, I am of the view that it is a fit case for re-open the closure report and enquire the matter afresh. Therefore, the 1st respondent is directed to expedite the 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. The petitioner is also directed to appear before the 1st respondent police on 30.03.2016 along with relevant documents and to co-operate for enquiry.

5. The Criminal Original Petition is disposed of with the above direction.

kkd

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Deputy Superintendent of Police,
Gobichettipalayam Taluk,
Erode District.

2.The District Superintendent of Police,
Erode.

3.The Public Prosecutor,
High Court, Chennai.

+ 1 cc to Mr.M.V.Krishnan, Advocate Sr 17770

KR/28/3/16

Cr1.O.P.No.6034 of 2016



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