



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Fifteenth day of February Two Thousand Sixteen

PRESENT

WEB COPY

THE HON`BLE MR JUSTICE P.N.PRAKASH

CRL MP(MD) No.914 of 2016
IN
CRL OP(MD) No.22262 of 2015

T.GANDHIAMMAL ... PETITIONER/3rd Party

Vs

1 A.N.KARNAN S/O.NAINAR, ... Respondent/1st Petitioner

2 S.SELVARAJ S/O.SAMBASIVAN, ... Respondent/2nd Petitioner

3 THE SUPERINTENDENT OF POLICE
THOOTHUKUDI DISTRICT,
THOOTHUKUDI ... Respondent/1st Respondent

4 THE INSPECTOR OF POLICE
PUDUKOTTAI POLICE STATION,
THOOTHUKUDI TALUK & DISTRICT ... Respondent/2nd Respondent

5 GENGAN
S/O.PERUMAL NAICKER, ... Respondent/3rd Respondent

Prayer in CRL MP(MD) No.914/2016 :

Petition praying that in the circumstances stated therein and in the affidavit filed therewith. The High Court will be pleased to recall the order passed in Crl.O.P.(MD). No.22262 of 2015 dated 7.12.2015 and hear the matter on merits.

Prayer in CRL OP(MD). 22262/ 2015 :

Criminal Original Petition is filed under Section 482 of Cr.P.C. praying to direct the respondents 1 and 2 to provide adequate police protection to the petitioners for fencing of their house plots to and extent of 2.5 cents each situated in survey No.97, 98, 99, Deivacheyalpuram, thoothukudi district comprised in patta No.31 based on their representations dated 16.11.2015

Order : This petition coming on for hearing on this day upon perusing the petition filed in support thereof and upon hearing the arguments of M/S D.SRINIVASARAGAVAN, Advocate for the petitioner/3rd party, and MR.G.THALAIMUTHARASU Advocate for Respondents 1 and 2/ Petitioner in Crl.OP and M/S.S.PRABHA Government Advocate (Crl.Side)



for Respondents 3 and 4, and this court made the following order:-

It is seen that in CrI.O.P.(MD) No.22262 of 2015, this Court passed a final order on 07.12.2015, wherein in Paragraph No.3, it has been stated as follows:

"3. Considering the facts and circumstances of the case the 2nd respondent is directed to provide police protection to the petitioners for fencing of their house plots to an extent of 2.5 cents each situated in Survey Nos.97, 98, 99, at Deivacheyalpuram, Thoothukudi District, comprised in Patta No.31, based on their representations dated 16.11.2015, for a period of 15 days. It is made clear that before providing police protection, the 2nd respondent is directed to give an opportunity of hearing to the 3rd respondent and the other persons, who are likely to be affected."

2. It appears that the aforesaid order has been passed by this Court after hearing the counsel for A.N.Karnan and S.Selvaraj / petitioners therein and Gengan / 3rd respondent therein. Now, the present petition has been filed by one T.Gandhiammal to recall the order dated 07.12.2015, on the ground that the said order has been obtained by suppression and fraud.

3. Learned counsel for T.Gandhiammal submits that there are civil suits pending between the parties and those facts have not been placed before this Court.

4. At the outset, this Court has to state that this petition to recall is not maintainable in view of Section 362 Cr.P.C. If it is a simple case of dismissal for default, this Court can restore the petition, whereas after hearing both sides, this Court has passed a detailed order. Apart from that the order does not give a carte blanche to the Police to give police protection for A.N.Karnan and S.Selvaraj for fencing their house plots. The order very clearly states that before giving police protection, the Police should give notice to Gengan and all other persons, who may be affected by it. Therefore, the Police are directed to follow the directions of this Court in letter and spirit. It is always open to the Police to even reject police protection, if it is otherwise found to be not feasible.

Hence, in view of the bar under Section 362 Cr.P.C., this Miscellaneous Petition stands dismissed.

sd/-
15/02/2016

/ TRUE COPY /



TO

- 1 THE SUPERINTENDENT OF POLICE
THOOTHUKUDI DISTRICT, THOOTHUKUDI
- 2 THE INSPECTOR OF POLICE
PUDUKOTTAI POLICE STATION,
THOOTHUKUDI TALUK & DISTRICT
- 3 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1CC to Mr.D.Srinivasaragavan Advocate Sr.No.8947
+1CC to Mr.G.Thalaimutharasu Advocate Sr.No.8979

ORDER DATE : 15/02/2016
ORDER
IN
CRL MP (MD) No.914 of 2016
IN
CRL OP (MD) No.22262 of 2015

Giving Directions etc., as
stated within.

GJM/SKS/RR/SAR-I-24.2.16-3p-6C