



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P. (MD) .No.4883 of 2016

and

W.M.P. (MD) No.4375 of 2016

S.Suresh

... Petitioner

vs.

1.The Commissioner of Police
Madurai City, Madurai

2.The Inspector of Police
Thilagar Thidal Police Station
Madurai

3.M.Sugumar

4.M.Rajkumar

... Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the second respondent from interfering in a civil dispute, which is subject matter in O.S.No.415/2015, on the file of Principal District Munsif Court, Madurai, in respect of the property, comprised in Door No.174-C/1, North Veli Street, Madurai, on the basis of the complaint lodged by the respondents 3, 4.

For Petitioner : Mr.R.G.Shankar Ganesh

For Respondents : Mr.D.Muruganantham, A.G.P., for R1 & R2

O R D E R

The prayer in this writ petition is for issuance of a writ of mandamus to direct the second respondent to forbear from interfering in a civil dispute, pending on the file of the learned Principal District Munsif, Madurai, in O.S.No.415 of 2015, in respect of the property, situated at Door No.174-C/1, North Veli Street, Madurai, on the basis of the complaint lodged by the respondents 3 and 4 herein.

2. When the matter is taken up for hearing, the learned Additional Government Pleader appearing for the respondents 1 and



2 has submitted that on the complaint lodged by the fourth respondent herein, petition enquiry, in C.S.R.No.105 of 2016, is pending and the petitioner has been called for enquiry.

3. The Hon'ble Supreme Court, in **Lalitha Kumari vs. Govt. of U.P & others**, reported in **[2013 (4) Crimes 243 (SC)]**, has categorically held that in commercial transaction cases also, preliminary enquiry can be conducted.

4. The learned counsel appearing for the petitioner has submitted that the petitioner has filed a suit, in O.S.No.415 of 2015, before the learned Principal District Munsif, Madurai, in respect of the same cause of action. However, the respondent Police are unnecessarily harassing the petitioner.

5. When a complaint is lodged, it is the bounden duty of the Police to conduct an enquiry and in the enquiry the complainant shall also take part and put forth the facts before the Police. However, the Police should not put pressure on the complainant or proposed accused illegally.

6. Under such circumstances, the petitioner herein is directed to participate in the enquiry and during enquiry, he shall not be harassed by the respondent Police. During the course of enquiry, if any cognizable offence is made out, the respondent Police are at free to register F.I.R. and this order shall not be a shield for the petitioner against arrest.

7. With the above observations, this writ petition is disposed of. Consequently, connected writ miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Principal District Munsif, Madurai
 - 2.The Commissioner of Police, Madurai City, Madurai.
 - 3.The Inspector of Police,
Thilagar Thidal Police Station, Madurai.
- +1cc to Mr.R.G.Shankar Ganesh,Advocate Sr.No.13733
krk
AA/SKS-RR/22.03.2016/2p-5c

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