

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

CrI.O.P.No.400 of 2017

M.Myilsamy

... Petitioner

Vs

The Inspector of Police,
Pollachi Taluk Police Station,
Pollachi,
Coimbatore District.

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondent to provide police protection to the petitioner to fence his lands by taking action on his complaint dated 17.12.2016 in compliance with law declared by this Court in Radhika Sri Hari Case (2014 (2) CTC 695).

For Petitioner : Mr.N.Manokaran

For respondent : Mr.C.Emalias,
Addl. Public Prosecutor

ORDER

The present criminal original petition has been filed seeking a direction to the respondent police to provide police protection to the petitioner to fence his lands by taking action on his complaint dated 17.12.2016 in compliance with the law declared by this Court in Radhika Sri Hari Case (2014 (2) CTC 695).

2. It is the case of the petitioner that he is the owner of the landed properties comprised in S.F.Nos.115/1, 116, 128/1 and 128/4 of Kurumbapalayam Village, Pollachi Taluk, by virtue of a partition deed dated 29.10.2003. The petitioner has also been in possession and enjoyment of S.F.No.114 on the basis of a 2C (Tree patta) dated 1.7.2005 issued by the Tahsildar,

Pollachi. The Government has recognized his possession and enjoyment over the trees grown up in S.F.No.114 and granted the said 2C patta subject to payment of 2C charges for the past several years. While so, on 28.11.2012 at about 10.00 a.m., one Appu @ Sivasubramanian and his associates committed criminal trespass into the said property and started causing damages to the trees in S.F.No.114 and has cut and removed the trees worth about Rs.50,000/-. Hence, the petitioner lodged a complaint dated 28.11.2012 before the respondent police and it was acknowledged as CSR No.290 of 2012. However, thereafter, the respondent police has not shown any interest to register a case based on the said complaint. Hence, the petitioner has filed a petition before this Court in CrI.O.P.No.477 of 2013 seeking a direction to the respondent police to register a case based on his complaint and this Court, by order dated 2.8.2013, directed the respondent to register a case, if the complaint discloses commission of cognizable offence. Even thereafter, no action was taken by the respondent police. Hence, the petitioner filed a civil suit in O.S.No.129 of 2014 as against the said Sivasubramanian on the file of District Munsif Court, Pollachi, for permanent injunction. Along with the suit, he has also filed an application in I.A.No.449 of 2014 for interim injunction and after contest, interim injunction was also granted in favour of the petitioner by order dated 4.4.2016. The said order of interim injunction is still in force. Even thereafter, the accused has been continuously giving trouble to the petitioner. Therefore, the petitioner again reported the matter to the respondent by way of a complaint dated 21.9.2016, followed by a reminder dated 17.12.2016, seeking adequate police protection to the petitioner for fencing his property. Since no action was taken on the said complaint, the petitioner has come up with the present petition seeking a direction to the respondent to provide police protection to fence his lands.

3. Learned counsel appearing for the petitioner submitted that even after obtaining interim injunction in favour of the petitioner, the accused has been continuously giving trouble to the petitioner and hence, on the strength of interim injunction, he requested the respondent police to give police protection to fence his lands. Learned counsel appearing for the petitioner further submitted that in identical situation, this Court, in the case of Radhika Sri Hari and another v. Commissioner of Police reported in 2014 (2) CTC 695, has held that the petitioner in that case would be entitled to police protection as prayer for. Thus, he sought for similar direction in this petition also.

4. On the above submissions, I have heard also the learned Additional Public Prosecutor and perused the entire materials available on record.

5. In the decision reported in 2014 (2) CTC 695 - Radhika Sri Hari and another v. Commissioner of Police, in paras 7 and 8, this Court has held as follows:-

" 7. In the aforesaid circumstances, this court considers it appropriate to refer to report of the committee constituted by the Government in G.O.(3D) No.42, Home dated 30.06.2008 towards review of the system of treating complaints relating to money and land matters and to suggest a legally acceptable methodology. The report of such committee touching upon several issues, was accepted by Government. Having done so, under G.O.Ms.No.1580 Home (POL.VII) Department dated 24.11.2008, the Director General of Police was required to circulate the report along with the 14 point guidelines annexed to such Government order to police officers/stations for appropriate adherence. Under C.No.43/CRB/CSP/2008 dated 08.12.2008, the Commissioner of Police, Chennai Sub-Urban, has caused communications to all Deputy Commissioners, Assistant Commissioners and Inspector of police for necessary action. Guideline 11 issued by the committee reads as follows:

"11. When police protection is sought for the implementation of a civil court order it should be given readily. Police should not insist on a specific court direction to give police protection."

8. What is informed above makes clear that the petitioner would be entitled to police protection as prayed for. Criminal original petition is allowed. There will be a direction to respondents to provide police protection to the petitioners for a period of three weeks from the date of receipt of a copy of this order towards enabling them raising fresh barbed wire fences on their property. The same will be at the cost of the petitioner. "

Hence, as per the Guideline 11 issued by the committee constituted by the Government in G.O.(3D) No.42, Home dated 30.6.2008, when police protection is sought for, for the implementation of a civil court order, it should be given readily. In the instant case also, the petitioner has obtained an interim injunction in his favour from the competent civil Court and the same is now in force. Hence, based on the said order, the petitioner is entitled to get police protection to fence his property.

6. In the result, the criminal original petition is allowed and the respondent police is directed to provide adequate police protection to the petitioner for a period of

three weeks from the date of receipt of a copy of this order to enable him to fence his property. However, the same will be at the cost of the petitioner.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

sbi

To

1.The Inspector of Police,
Pollachi Taluk Police Station,
Pollachi,
Coimbatore District.

2.The Public Prosecutor,
High Court, Madras.

1 cc to Mr.N. Manokaran, Advocate Sr. 2424

Cr1.O.P.No.400 of 2017

RSY (CO)
kk 12/1



WEB COPY