

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P.No.6212 of 2017

P.Gunasekaran

... Petitioner

Vs

1. State by Inspector of Police,
C-3, Seven Wells Police Station,
Chennai-600 001.

2. M.M.P.A.Rahumathulla
(R2 impleaded as per order of this
Court dated 07.04.2017 in Crl.M.P.No.
4799/2017 in Crl.O.P.No.6212/2017).

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondent police to grant police aid to enable the petitioner to enjoy his property bearing Door Nos.19 and 22, North Wall Street, Peddunaickenpet, Chennai-600 079, comprised in Old S.No.6064, R.S.No.604/1, present R.S.No.604/3 (part) measuring one Ground 1678 sq.ft.

For Petitioner : Mr.S.Udhayakumar

For respondents : Mr.C.Emalias,
Addl. Public Prosecutor for R1

ORDER

The present criminal original petition has been filed seeking a direction to the respondent police to provide police protection to the petitioner to live in the residential property in Door Nos.19 and 22, North Wall Street, Peddunaickenpet, Chennai-600 079, comprised in Old S.No.6064, R.S.No.604/1, present R.S.No.604/3 (part) measuring one Ground 1678 sq.ft. , 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 the petitioner's two daughters are the owners of the property in Door Nos.19 and 22, North Wall Street, Peddunaickenpet, Chennai-600 079, comprised in Old S.No.6064, R.S.No.604/1, present R.S.No.604/3 (part) measuring one Ground 1678 sq.ft. Since the second respondent is preventing them from entering into the property, they filed a suit in O.S.No.2402 of 2016 on the file of the XIV Assistant City Civil Court, Chennai against the second respondent seeking permanent injunction restraining him and his agents from interfering with the peaceful possession and enjoyment of the subject mentioned property. They also filed an application for interim relief and they also obtained an order of interim injunction. Even after obtaining the order from the Trial Court, the said person is threatening the petitioner with dire consequences, and therefore the petitioner is not able to live in the said property. The petitioner approached the respondent police seeking police protection, for which no action is forthcoming. Hence this Criminal Original Petition.

3. Learned counsel appearing for the petitioner submitted that even after obtaining an order from the Trial Court the second respondent is continuously giving trouble to the petitioner and hence, on the strength of the order passed by the Court, he requested the respondent police to give police protection to him and his family. 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. He also submitted that the interim order granted by the Trial Court in I.A.No.6146 of 2016 was made absolute on 29.09.2016.

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 order in his favour from the Trial Court and the same is now in force. Hence, based on the said order, the petitioner is entitled to get police protection for his life and 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's life and property, as and when required by him. However, the same will be at the cost of the petitioner.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KM

To

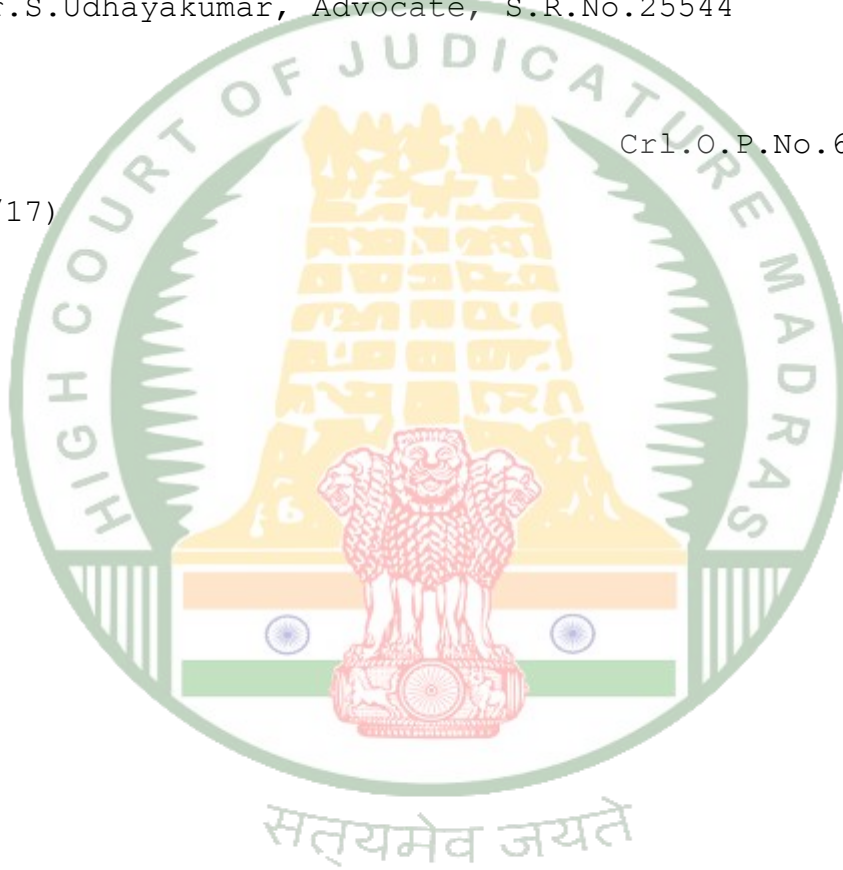
1. The Inspector of Police,
C-3, Seven Wells Police Station,
Chennai-600 001.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Udhayakumar, Advocate, S.R.No.25544

rj(co)
rmp(03/05/17)

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