

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.O.P.No.4715 of 2017

Periyasamy

[Petitioner]

Vs

1. The State rep.by
The Inspector of Police,
Thalaivasal Police Station,
Salem District.

2. Kanagarathinam

[Respondents]

Petition filed under Section 482 of the Criminal Procedure Code, to direct the first respondent police to give protection to the petitioner and his family members from the threat of the 2nd proposed respondent for execution of the order passed by the Court and preventing him from peaceful possession and enjoyment of the petitioner's landed property.

For Petitioner : Mr.E.Kannadasan

For Respondents : Mr.C.Emalias,
Additional Government Pleader for R1

O R D E R

This Criminal Original Petition has been filed to issue a direction to the first respondent to give police protection to the petitioner, as there is a threat from the second respondent for execution of the order passed by the Lower Court.

2.The petitioner states that he is the owner of the suit property in O.S.No.359 of 2013 on the file of the District Munsif, Attur, Salem District and he is in possession and enjoyment of the same. The second respondent gave trouble to the petitioner preventing the petitioner from enjoying his property. The second respondent also attempted to obliterate the property of the petitioner. The petitioner approached the District Munsif Court, Attur, Salem District by filing a suit in O.S.No.359 of 2013 and an ex-parte order was passed in favour of the

petitioner. Even then, the second respondent gave continuous troubles to the petitioner for which the petitioner preferred a complaint before the first respondent police, but except issuing CSR copies, no action was taken. The petitioner approached the first respondent to give protection to him for execution of the decree of the Lower Court, but it was returned as not maintainable. Hence this Criminal Original Petition.

3.Mr.C.Emalias, learned Additional Public Prosecutor, takes notice for the first respondent.

4.Learned counsel appearing for the petitioner submitted that even after obtaining injunction in favour of the petitioner, the second respondent is preventing the petitioner to enjoy his properties and he is giving continuous trouble to the petitioner. 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.

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

6.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 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.

7.In the result, the petitioner is directed to give a representation to the first respondent police, to give police protection to him, on the basis of the decree passed by the Lower Court, within a period of one week from the date of receipt of a copy of this order. On such representation being made, first respondent police is directed to consider the same, on merits and in accordance with law, after issuing notice to the petitioner as well as all the interested parties, and take appropriate action within a period of four weeks from the date of receipt of a copy of this order. Till then, the first respondent police is directed to provide adequate police protection to the petitioner. However, the same will be at the cost of the petitioner. सत्यमेव जयते

8.The Criminal Original Petition is disposed of accordingly.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Inspector of Police,
Thalaivasal Police Station,
Salem District.
2. The Public Prosecutor,
Madras High Court,
Chennai-600 104.

+1cc to Mr.E.Kannadasan, Advocate, S.R.No. 16135

CrI.O.P.No.4715 of 2017

GJII (CO)
RMP (21/03/17)



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