

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2017

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Crl.RC.No.778 of 2017

S.Thakkar

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Petitioner

Vs

State Rep.by
The Inspector of Police (L&O)
H1 Washermenpet Police Station,
Chennai 600 021.

...

Respondent

Prayer:- Criminal Revision Petition filed under Section 397 & 401 of Cr.P.C.,
pleaded to set aside the order dated 21.02.2017 made in MP.No.629 of 2017
on the file of XV Metropolitan Magistrate, George Town, Chennai and to
allow the same.

For Petitioner :Mr.S.Balasubramanian

For Respondent :Mr.R.Sekar, Government Advocate
(Criminal side)

ORDER

This petition is filed to set aside the order dated 21.02.2017
made in MP.No.629 of 2017 on the file of XV Metropolitan Magistrate,
George Town, Chennai

2. The case of the petitioner is as follows:-

The petitioner purchased a house property situated at No.12, Old

Washermenpet, Chennai 21. Though it was purchased by the petitioner, the accused persons who had been in possession, have not vacated the premises and in fact they tried to give trouble to the petitioner. The petitioner had approached the competent Civil Court in O.S.No.3626 of 2007 on the file of the XVI Assistant, City Civil Court, Chennai and sought for a decree for recovery of possession. The said suit has been decreed and in fact the said decree was executed by the petitioner and all those who had been occupying or in possession of the property had been vacated and the petitioner had been put in possession. However, subsequently two persons (accused) namely Srinivasan and Geetha, who had been in occupation of the property which was purchased by the petitioner, inspite of their vacating the premises pursuant to the Civil Court order, started re-occupying the house by thus giving trouble to the petitioner. When the petitioner questioned about the illegal occupation on the part of the said two persons, they in fact threatened the petitioner. Therefore the petitioner gave a complaint to the concerned police and the said complaint, according to the petitioner, had not been considered and not even a case has been registered against those two persons.

3. Therefore, aggrieved by the inaction on the part of the police concerned, the petitioner had approached the Court below by filing a petition under Section 156(3) of the Cr.P.C. seeking a direction from the

Court below to direct the concerned police to investigate the matter in accordance with law.

4. The said petition filed before the Court below under Section 156(3) of the Cr.P.C. was rejected by the learned Judge, through the impugned order, against which, the present revision has been filed.

5. The learned counsel for the petitioner submitted that the property was purchased by the petitioner and the said two persons against whom the complaint had been made, since have occupied a portion of the property and started giving trouble to the petitioner, he had already approached the competent Civil Court and obtained a decree in his favour. Pursuant to the said decree, an Execution Petition was also filed, and through Court proceedings those who had given trouble to the petitioner had been vacated where the petitioner had been put in possession. Only thereafter, once again, with the muscle power, those two persons, along with four unidentified persons, occupied the portion of the premises and threatened the petitioner. Therefore in that circumstances the petitioner had approached the respondent police but no fruitful result was coming from the police side. Since the petitioner had no other option filed a petition under Section 156 (3) of Cr.PC. The learned Magistrate without considering the merits of the issue in proper perspective and without giving

direction to investigate the complaint given by the petitioner, has erroneously rejected the said petition. Therefore the petitioner even though a lawful owner and is in lawful possession of his premises, has been threatened by the hooligans, at the instance of the two persons namely Srinivasan and Geetha.

6. The learned counsel for the petitioner further submitted that the said order of the learned Magistrate which is impugned herein has to be set aside and suitable direction may be given.

7. After hearing the learned counsel for the petitioner, the learned Government Advocate (Criminal Side) was directed to get instructions on the ground situation related to the issue raised by the petitioner. Though initially it was submitted by the respondent police through the learned Government Advocate that the said persons i.e., Srinivasan and Geetha as well as the petitioner had been called for a talk and in fact the issue was compromised between the parties and the same was recorded by the police. However, when this Court specifically pointed out to the learned Government Advocate that the petitioner has been put in possession by the order of the Civil Court, of course after obtaining a Civil Court decree, there is no scope for placing any third party in possession of the premises and therefore in that aspect inaction on the part of the police

was pointed out. Thereafter the learned Government Advocate wanted some more time to place the facts before this Court with proper instructions.

8. Accordingly the case has once again come up for hearing. Today the learned Government Advocate has produced a copy of the first information report dated 26.07.2017 in FIR No.939 at the Washermenpet Police station i.e, respondent herein. On perusal of the said FIR it reveals that, the said individuals namely Srinivasan and Geetha, against whom the complaint was given by the petitioner, had been shown as accused and the said complaint given by the petitioner on 28.07.2016 has been taken on file and the FIR to that effect has been registered. Also the respondent police, according to the instructions given to the learned Government Advocate, has apprehended the said two individuals and they were produced before the concerned Magistrate for remand and they were remanded.

9. Since the respondent police has acted upon pursuant to the complaint given by the petitioner and a FIR has been also registered to that effect and in fact the accused persons have been apprehended and remanded to judicial custody, it is for the respondent police to further investigate the matter and apprehend all other accused persons depending upon the progress of the investigation to be taken up by the respondent

R. SURESH KUMAR,J.

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police.

10. At any rate since the grievance of the petitioner, as against the present impugned order where his petition filed under Section 156(3) of Cr.P.C. was rejected, has been redressed and the respondent police has acted upon, in accordance with law. Therefore, this Court feels that no further order is required in this revision, hence by recording the said registration of the FIR by the respondent police in FIR No.939 dated 26.07.2017 and with a direction to the respondent police to proceed with the said FIR in accordance with law, this criminal revision petition is disposed.

27.07.2017

Index : Yes/No
 Internet : Yes/No
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To

1. The XV Metropolitan Magistrate,
George Town, Chennai
2. The Inspector of Police (L&O)
H1 Washermenpet Police Station,
Chennai 600 021.
3. The Public Prosecutor,
High Court, Madras.

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