



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 31.08.2017
CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL OP(MD)No.11473 of 2017

WEB COPY

1. T.Sivasakthi
2. Murugan
3. Gnanapalraj : Petitioners

Vs.

1. The State of Tamil Nadu
rep. through its Superintendant of Police,
Thirunelveli District, Thirunelveli.
2. The Inspector of Police,
Land Grabbing Cell,
Thirunelveli District,
Thirunelveli.

3. Susila : Respondents No.1 to 3

PRAYER: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to direct the respondent Nos.1 and 2 not to harass the petitioners, on the basis of the alleged complaint given by the third respondent i.e Susila, W/o. Jeyapal dated not known, which is a civil dispute.

For Petitioner : Mr.P.M.Vishnuvarthanan
For Respondent Nos.1 and 2 : Mr.K.Anbarasan,
Government Advocate(Crl.Side).

ORDER

This petition is filed to direct the respondent Nos.1 and 2 not to harass the petitioners, on the basis of the alleged complaint given by the third respondent as against the petitioners.

2. It is stated that the third respondent has given a complaint as if the Power of Attorney deed, dated 25.06.2012 alleged to have been obtained from the third respondent is a forged document and that the petitioners have transacted further on the basis of such forged document. The complaint lodged as against the petitioners disclose cognizable offence regarding forgery, impersonation and cheating. In the said circumstances, the petitioner has received summons from the second respondent.



It is further stated that under the guise of enquiry, the petitioners are put to harassment. The contention that the dispute is purely civil in nature, cannot be accepted, having regard to the serious allegations made against the petitioners.

3. The learned counsel appearing for the petitioners states that there was a subsequent mortgage and that the original documents were handed over to the Bank. Since the petitioners are having the custody of original document, the learned counsel appearing for the petitioners suggested that a false case has been foisted as against the petitioners.

4. The contention of the learned counsel appearing for the petitioners has no merits, as the complaint also refers to the fact that the documents were stolen. The fact that the first petitioner is in possession pursuant to the sale deed alleged to have been executed by the third respondent as power of attorney of third respondent, cannot be considered at this stage, so as to justify the stand taken by the petitioners that the petitioners have not committed any offence. When the complaint clearly disclose a cognizable offence, the respondent is expected to register the same and hold an enquiry to proceed further. In this case also, only preliminary enquiry has been conducted.

5. The learned Government Advocate (Crl. Side) appearing for the respondents 1 and 2 also submitted that the petitioners were also called upon to appear only after issuing summons. It is further stated that the petitioners themselves have given statement to the police to settle the matter. The complaint ought to have been taken cognizance. However, the respondent police need not harass the petitioners.

6. With the observation that the enquiry can be conducted only after issuing summons prescribing the date and time and in the manner prescribed in law and giving liberty to the respondents 1 and 2 to proceed with the enquiry and further investigation after registering the case, the Criminal Original Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Thirunelveli District,
Thirunelveli.



2. The Inspector of Police,
Land Grabbing Cell,
Thirunelveli District,
Thirunelveli.

WEB COPY

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO MR.P.M.Vishnuvarthanan, ADVOCATE IN SR No.75615

trp

MK/MR KKR/SAR-2/3P/5C/21.09.2017

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