



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.09.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.12308 of 2017

A. Ponnuvel

: Petitioner

-Vs-

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

2.The Inspector of Police,
Sivagiri Police Station,
Thirunelveli District.

3.Mohammed Yousuf

: Respondents

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to direct the 2nd respondent and his subordinates not to harass the petitioner in the name of enquiry and as well as the 3rd respondent also tortured over phone (Nos.9943909040 and 9445154761) and via letter the petitioner and to follow the due process of law.

For Petitioners

: Mr. S. Lingarasu

For Respondents 1 and 2

: Mr.K.Anbarasan,

Government Advocate(Crl.Side)

O R D E R

This Criminal Original Petition is filed for issuing a direction to the the 2nd respondent and his subordinates not to harass the petitioner in the name of enquiry and as well as the 3rd respondent, who has tortured over phone (Nos.9943909040 and 9445154761) and via letter.

2. It is stated that the petitioner has borrowed a sum of Rs.10,00,000/- from the third respondent and that the loan borrowed from the third respondent also secured by the mortgage. It is further stated by the petitioner that the third respondent has given a complaint to the second respondent stating that the petitioner had referred to settle the said amount and that the

second respondent under the guise of enquiry is harassing the petitioner, which is illegal.

3. The petitioner admit the borrowal from the third respondent. If the loan is secured by a registered mortgage as submitted by the petitioner, the third respondent cannot give a police complaint so as to recover the amount from the petitioner. It is further submitted that the third respondent is also charging exorbitant interest contrary to the terms of the Registered mortgage deed.

4. In such circumstances, this Court is inclined to pass the following direction:

If the second respondent has received any complaint from the third respondent against the petitioner in connection with recovery of the money advanced to the third respondent, the second respondent need not entertain the complaint as the dispute is purely in civil. Unless any offence is disclosed in the complaint the petitioner need not be harassed by the second respondent. Even if the complaint is received for any cognizable offence the case may be registered in accordance with law and the petitioner can also be called for an enquiry only after issuing summons. prescribing date and time and in the manner prescribed in law.

5. With the above observations, the Criminal Original Petition is closed.

Sd/-

Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To

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

2.The Inspector of Police,
Sivagiri Police Station,
Thirunelveli District.

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

+1 cc to Mr.S.Lingarasu , Advocate in SR.No. 79809

trp

AE/MR KKR/SAR1/28.09.2017/2P/5C