



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

CRL.OP.(MD) No.16817 of 2017

Saravanan : Petitioner
Vs.

1. The Superintendent of Police,
Theni District.

2. The Deputy Superintendent of Police,
Periyakulam, Theni District.

3. Megala Palanisamy : Respondents

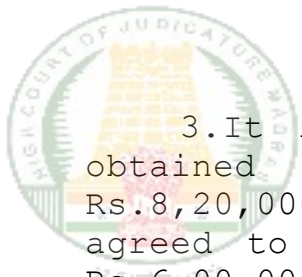
PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the second respondent not to harass the petitioner under the guise of enquiry.

For Petitioner : Mr.K.Kulanthai Vickram
For R1 and R2 : Mr.K.S.Durai Pandian
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to direct the second respondent not to harass the petitioner under the guise of enquiry.

2.The petitioner himself has admitted that the property situated in Survey Nos.772/1, 772/1B and 767/2, Vadakarai Village to an extent of 2 acres, 84 cents belongs to one Packialakshmi, W/o.Balachandaran Vadanam. It is further admitted that the said Packialakshmi, executed a mortgage deed in favour of one Mehala, W/o.Palanisamy for a sum of Rs.6,00,000/-. It is further stated that the said Packialakshmi, executed another document permitting the said Mehala by taking the property on lease and to adjust the interest payable by her. It is also agreed that the mortgage should be redeemed within a period of three years and that in case the mortgage is not redeemed, the possession of the property should be with the said mortgagee.



3.It is also admitted that the petitioner, thereafter, has obtained a sale deed dated 19.02.2016 for a sum of Rs.8,20,000/- and that the petitioner has paid Rs.2,20,000/- and agreed to redeem the mortgage by paying the balance amount of Rs.6,00,000/-

WEB COPY

4.It appears that the amount which the petitioner has undertaken to pay towards sale consideration has not been paid by the petitioner. It is, in the said circumstances, the petitioner himself has given a complaint as against the original owner of the property saying that the aggrieved persons are compelling to pay the money, immediately or else threatening to file a criminal complaint. From the petition filed by the petitioner and the complaint lodged before the Superintendent of Police, Theni District, it is seen that the petitioner has agreed to discharge the mortgage in respect of the property upon paying a sum of Rs.6,00,000/-.

5. From the nature of transaction stated by the petitioner, the third respondent is only a mortgagee entitled to be in possession till the mortgage is redeemed as per the agreement. As a mortgagee, she is also entitled to proceed against the property, if the money is not paid within three years from the date of mortgage. In such circumstances, the complaint alleged to have been lodged by the third respondent is unsustainable and does not stand to reason. Hence, there cannot be any harassment. Hence, the first respondent is directed to hold an enquiry and to take necessary action, if required in accordance with law. With the above direction, the petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Theni District.
 2. The Deputy Superintendent of Police,
Periyakulam, Theni District.
 3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +1cc to Mr.Mr.K.Kulanthai Vickram, Advocate, SR. 91710
CMR
VB/JC/SAR2/18/01/2018/2P/5C