

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

CrI.O.P.No.22135 of 2017

1.K.V.Palani

2.J.Eshwari

... Petitioners

Vs.

1.The Commissioner of Police,
Office of the Commissioner of Police,
Egmore, Chennai - 600 008.

2.The Deputy Commissioner of Police,
Office of the Deputy Commissioner of Police,
St. Thomas Mount, Chennai - 600 018.

3.The Joint Commissioner of Police,
Office of the Joint Commissioner of Police,
St. Thomas Mount, Chennai - 600 018.

4.The Assistant Commissioner of Police,
Office of the Assistant Commissioner of Police,
Madipakkam, Chennai - 600 117.

5.The Inspector of Police,
Pallikaranai Police Station,
Pallikaranai, Chennai.

6.Nazhar

7.Mumtaj

8.Fathima Beevi

9.Hajira

10.Raheem

11.Mansoor

12.Noorjahan

13.Shamshadh

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the first respondent to entrust the complaint given by the petitioner to the first respondent and other respondents on various dated to any other competent team of police other than the 5th respondent who had shown undue

indulgence, understanding and forbearance in favour of the said intruders thereon enquire into the matter and to register the complaint as against the intruders who had entered into the property on the aforesaid dates based upon the evidences provided by the petitioner and enquire into the matter and set the law in motion as against the intruders who claimed themselves to be advocates in white and black uniform for the act of illegal and unlawful criminal trespass into the property of the petitioners and thereby trying to disturb the possession of the property and consequently direct the respondents 6 to 13 to undo the unlawful and illegal changes in respect of the physical features of the property and restore it to status quo anti as on the date of the illegal action at the instance of the said respondents as on 04.05.2017.

For Petitioners : Mr.A.Palaniappan

For Respondents 1 to 5 : Mrs.P.Kritika Kamal,
Government Advocate (crl. side)

For Respondents 6 to 13 : Mr.E.C.Murali

ORDER

This petition is filed seeking a direction to the second respondent police to register a case on the basis of the petitioners' complaint.

2.Heard learned counsel for the petitioners as well as the learned Government Advocate (crl. side) appearing for the respondents 1 to 5 and the learned counsel for the respondents 6 to 13.

3.The grievance of the petitioners is that inspite of a complaint given by them on various dates to the respondent police, the same has been kept in abeyance without any action. It is well settled in the judgment of the Hon'ble Supreme Court in Lalita Kumari Vs. Government of Uttar Pradesh and others [2013 (6) CTC 353], that registration of an FIR is mandatory under Section 154 of the Code of Criminal Procedure if an information furnished to the police officer disclose commission of a cognizable offence and in cases where the information does not disclose a cognizable offence, a preliminary enquiry has to be conducted.

4. The respondent police are not justified in having received the complaint and keeping it unattended without any further action. In view of the same, the petitioner has made out a case for this Court to invoke its inherent powers under Section 482 of the Criminal Procedure Code.

5. In the result, the petitioners are directed to give a copy of the complaint dated 30.08.2017 to the Station House Officer having territorial jurisdiction over the issue. On receipt of the said copy of the complaint, the concerned Station House Officer shall adhere to the following directions.

1) If the information received by the concerned jurisdictional police officer discloses commission of a cognizable offence, then, the same shall be forthwith registered.

2) If an information received does not disclose a cognizable offence, the concerned jurisdictional police officer shall conduct a preliminary inquiry to ascertain whether cognizable offence is disclosed therein or not and such inquiry shall be completed within a period of fifteen days from the date of information.

3) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered, if not already registered or closed.

4) If the preliminary inquiry ends in closing the complaint, the closure report must be recorded along with the reasonings and a copy of the same shall be furnished to the complainant within one week.

5) All information relating to cognizable offences whether resulting in registration of FIR or leading an inquiry must be reflected in the general diary/station diary/daily diary of the concerned jurisdictional police officer's police station.

6. In the result, the Criminal Original Petition is allowed with the above directions.

Sd/-

Assistant Registrar (CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner of Police,
Office of the Commissioner of Police,
Egmore, Chennai - 600 008.

2.The Deputy Commissioner of Police,
Office of the Deputy Commissioner of Police,
St. Thomas Mount, Chennai - 600 018.

3.The Joint Commissioner of Police,
Office of the Joint Commissioner of Police,
St. Thomas Mount, Chennai - 600 018.

4.The Assistant Commissioner of Police,
Office of the Assistant Commissioner of Police,
Madipakkam, Chennai - 600 117.

5.The Inspector of Police,
Pallikaranai Police Station,
Pallikaranai, Chennai.

6.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.Palaniappan, Advocate, S.R.No.16889

Crl.O.P.No.22135 of 2017

RRK(09/03/2018)

The seal of the High Court of Madras is a circular emblem. It features a central image of the Lion Capital of Ashoka, which is a four-lion capital carved from a single block of dark soapstone. The lions are facing the four cardinal directions. Below the capital is a frieze with four panels, each depicting a different animal: a galloping horse, a bull, a lion, and a galloping elephant. The entire seal is surrounded by a green border with the text 'HIGH COURT OF JUDICATURE MADRAS' in white capital letters. Below the seal, the motto 'सत्यमेव जयते' is written in Devanagari script.

सत्यमेव जयते

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