

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.10984 of 2018

S.Rajarajeswari

... Petitioner

Versus

1.K.JeyaKumar

2.C.K.Shankar

3.C.K.Kannan

4.C.K.Sekar

5.ShethKutbuthinHuseniHabibn

6.R.Surendran

7.K.Balu

8.The Inspector of Police,
Land Grabbing Special Cell,
Coimbatore.

... Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to set aside the docketal order passed in S.R.No.1316 of 2018 dated 07.02.2018 and to direct the learned Judicial Magistrate No.II, Coimbatore to take the Protest Petition on file and proceed.

For Petitioner : Mr.P.G.Thiyagu

For Respondents : Mr.C.Raghavan
Government Advocate (Crl.Side)

ORDER

This petition has been filed to set aside the docketal order passed in S.R.No.1316 of 2018 dated 07.02.2018 and to direct the learned Judicial Magistrate No.II, Coimbatore to take Protest Petition on file and proceed.

2. On the complaint lodged by the petitioner, the respondent police registered a case in Crime No.34 of 2014 and after completing the investigation, the FIR in Crime No.34 of 2014 has been closed as further action dropped. It is the case of the petitioner that he was not informed about the closure of the FIR. However, when the petitioner made an application under RTI Act, he has been informed by the Public Information Officer, Land Grabbing Cell, Coimbatore, that the case in Crime No.34 of 2014 has been closed as action dropped. Therefore, the petitioner filed a Protest Application before the learned Judicial Magistrate No.II, Coimbatore and the same has been returned by the learned Magistrate on the ground that FIR is not pending in that Court, and that the FIR relates to Anti Land Grabbing Case and therefore, the same should be pending in the Court of the Special Magistrate for Anti Land Grabbing Cases. Challenging the said order, the petitioner is before this Court.

3. Heard Mr.P.G.Thiyagu, learned counsel appearing for the petitioner, who submitted that on account of the Stay granted by the Hon'ble Supreme Court in respect of all proceedings before the Anti Land Grabbing Special Courts in Tamil Nadu, the petitioner had rightly filed the Protest Application before the jurisdictional Magistrate viz., the Judicial Magistrate No.II, Coimbatore. He further placed reliance on the orders passed by this Court in Crl.O.P.No.11347 of 2013 dated 13.02.2018, in which, this Court has permitted the Investigating Officer to file the final report before the jurisdictional Magistrate, since the Supreme Court has granted Stay of all proceedings before the Special Magistrates for Anti Land Grabbing Cases.

4. In this case, it is not known, whether the police have filed the closure report at all. Because, the reading of communication dated 17.01.2017, shows that the police have only closed the investigation in Crime No.34 of 2014, as further action dropped and only if they file it in the Court, the defacto complainant will get the opportunity to file a Protest Application.

5. In such view of the matter, this Court directs the respondent police to file the report before the Special Magistrate for Anti Land Grabbing Case, Coimbatore, if not already filed, within a period of four weeks from the date of receipt of a copy of this order. A copy of closure report shall be furnished to the defacto complainant so that the defacto complainant can file the Protest Application. Liberty is given to the defacto complainant to thereafter file the Protest Application before the Court for Anti Land Grabbing Cases, Coimbatore.

6.This Court is aware of the fact that there is no Judicial Officer in the Court of Special Magistrate for Anti Land Grabbing Case, in view of the Stay, that has been granted by the Supreme Court. Therefore, this Court directs the Head Ministerial Officer or in-charge Magistrate of the Special Court for Anti Land Grabbing Cell, Coimbatore, to receive the Protest Application and keep it pending so that it can be taken up for hearing depending upon the outcome of the Supreme Court verdict.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

mps/klt

To

1.The Judicial Magistrate No.II,
Coimbatore.

2.The Inspector of Police,
Land Grabbing Special Cell,
Coimbatore.

+lcc to Mr.P.G.THIYAGU, Advocate, S.R.No. 26110

Cr1.O.P.No.10984 of 2018

SR(CO)
TR(24/04/2018)

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