

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.22033 of 2018

1.S.Gokilam
2.S.Kumaran
3.G.Karthika
4.G.Srimathi
5.M.Sivhandham

...Petitioners

Vs.

1.State: Rep. By,
The Inspector of Police
District Crime Branch,
Namakkal District.

2.R.Singaram

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the 1st respondent not to harass the petitioners.

For Petitioners :Mr.B.Vasudevan

For Respondents :M/s.M.Prabhavathi

Additional Public Prosecutor

O R D E R

This petition has been filed to direct the first respondent not to harass the petitioners under the guise of enquiry based on the complaint given by the second respondent.

2.The learned counsel for the petitioners has submitted that already Civil Suits are pending before the District Munsif, Paramathi, Namakkal District and during the pendency of the said suit, the second respondent has filed a private complaint before the Judicial Magistrate, Paramathi and the learned Judicial Magistrate has forwarded the complaint to the first respondent. He further submitted that based on the said complaint, the first respondent has not registered the case and even before registering the case, he has issued summons to the petitioners and on receipt of the said summons, the petitioners have appeared before the first respondent and produced the documents and also submitted that already the matters have been seized by

the Civil Court and even thereafter, the first respondent has insisted the petitioners to cancel the settlement deed, which was executed by the petitioner Nos.1 to 3 in favour of the fourth petitioner dated 26.09.2016 and hence, he requests to direct the first respondent not to harass the petitioners by giving pressure to cancel the aforesaid settlement deed.

3.The learned Additional Public Prosecutor has submitted that the first respondent, after receipt of the complaint from the learned Judicial Magistrate, Paramathi, has called the petitioners only for enquiry purpose and they were not subjected to any harassment.

4.Considering the aforesaid submissions, the first respondent is directed to conduct the preliminary enquiry with regard to the complaint only for the purpose of satisfying himself as to whether any cognizable offence is made out or not and for that purpose, he can call the complainant and direct him to produce materials to substantiate the allegations made in the complaint and thereafter, if he is satisfied that any cognizable offence is made out, then it is open to him to register the case and proceed in accordance with law. In case the enquiry reveals only a civil dispute, then he has to direct the complainant to get appropriate remedy before the Civil Court. Instead of that, he should not compel the petitioners to cancel the settlement deed when already civil suits are pending before the Civil Court. Further the first respondent is directed not to harass the petitioners under the guise of enquiry.

5.With the aforesaid observations, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(CS-VII)

सत्यमेव जयते
//True Copy//

Sub Assistant Registrar

To

- 1.The Inspector of Police
District Crime Branch, Namakkal District.
2. The Judicial Magistrate Paramathi.
- 3.The Public Prosecutor,
Madras High Court, Chennai.

+ 1 cc to Mr. B. Vasudevan, Advocate SR.63771

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RSY(CO)

EU(30/10/2018)