

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.O.P.No.19613 of 2018

K.Gokulakrishnan

... Petitioner

Vs

1. The Superintendent of Police,
Villupuram District,
Villupuram.

2. The Inspector of Police,
Vikravandi Police Station,
Vikravandi,
Villupuram District.

3. Sujatha

4. Senthilkumar

5. MadhavaKrishnan

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C.,
to direct the respondents 1 and 2 to give police protection to
restore and run the "Hotel Sree Saravana" in SSRD Complex, in
R.S.No.172/9B1, at Mundiymbakkam, Villupuram District.

For Petitioner : Mr.N.Suresh

For R1 & R2 : Mrs.M.Prabhavathi,
Addl. Public Prosecutor

For R3 & R4 : Mr.V.R.Annagandhi

For R5 : Mr.S.C.Vishwanth

O R D E R

This Criminal Original Petition has been filed to direct the
respondents 1 and 2 to give police protection to restore and run
the "Hotel Sree Saravana" in SSRD Complex, in R.S.No.172/9B1, at
Mundiymbakkam, Villupuram District.

2. It is the case of the petitioner that he had taken on rent two shops in the Ground Floor and one shop in the First Floor of SSRD Complex in Mundiambakkam Village, Villupuram District, from the 3rd respondent for running a hotel in the name and style of "Hotel Sree Saravana" on 03.10.2016. The petitioner had a separate arrangement with MadhavaKrishnan, the 5th respondent herein, under which, the 5th respondent was asked to run the hotel and pay Rs.1,300/- per day for three months and thereafter, share the profits in the hotel business.

3. While so, it is the case of the petitioner that on 29.04.2018, respondents 3 to 5 took forcible possession of the hotel and on the complaint given by the petitioner, a case in Vikravandi Police Station Crime No.397 of 2018 under Sections 147, 294(b), 447, 427, 341, 506(II) and 379 IPC was registered. It is the grievance of the petitioner that the police failed to take necessary action and therefore, he is before this Court for re-possession.

4. On notice, respondents 3 and 4 have entered appearance. Today, Mr.Barani, Inspector of Police, Vikravandi Police Station, is present.

5. Heard the learned counsel for the petitioner, the learned counsel for respondents 3 and 4 and the learned Additional Public Prosecutor, appearing for the respondents 1 and 2.

6. The 3rd respondent has filed a counter affidavit stating that the petitioner was inducted as tenant in respect of the said property on 03.10.2016 and that he had defaulted in payment of rent. It is also alleged that the petitioner has sublet the property to MadhavaKrishnan, the 5th respondent, who also did not pay the rent properly and was not able to run the hotel successfully. Hence, the petitioner was asked to vacate and hand over the possession and accordingly, the petitioner handed over the possession on 02.04.2018.

7. On instructions, the learned Additional Public Prosecutor submitted that the petitioner had sublet the hotel to the 5th respondent and when there was a dispute between the petitioner and the 5th respondent, the petitioner lodged a complaint against the 5th respondent, before the Inspector of Police, Town Police Station, Villupuram, based on which, a petition enquiry was conducted in CSR No.145 of 2018 and the same was closed on the ground that the petitioner and the 5th respondent have amicably settled their issues.

8. The learned Additional Public Prosecutor further

submitted that the investigation in Crime No.397 of 2018 was completed and the case was closed as "mistake of fact", however, the petitioner refused to receive the RCS notice and therefore, the police had to affix it on the door of his house, in the presence of the officials of the Revenue Department. That apart, according to the learned Additional Public Prosecutor, admittedly, the petitioner has also filed a suit in O.S.No.83 of 2018, before the Principal District Munsif, Villupuram, for a bare injunction as against the respondents 3 to 5.

9. In the opinion of this Court, when there are disputed questions of fact, they cannot be gone into, in a petition under Section 482 Cr.P.C. The fact remains that the investigation in CSR No. 397 of 2018 has been completed and a closure report has been filed before the Judicial Magistrate No.II, Villupuram.

10. The learned counsel for the petitioner submitted that the petitioner was not served with a copy of the closure report, which is strongly refuted by the learned Additional Public Prosecutor on the ground that the petitioner refused to receive the same, and therefore, the police had to affix the closure report on the door of his house.

11. Be that as it may, the police have submitted a copy of the closure report along with the statement of the witnesses, Mahazar and other documents, and the same have been furnished to the learned counsel for the petitioner, across the Bar.

Hence, this petition is closed, with liberty to the petitioner to approach the Judicial Magistrate No.II, Villupuram, within four weeks from the date of receipt of a copy of this order, for filing a protest application.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.II,
Villupuram.
2. The Superintendent of Police,
Villupuram District,
Villupuram.

3. The Inspector of Police,
Vikravandi Police Station,
Vikravandi, Villupuram District.

4. The Public Prosecutor,
High Court, Madras.

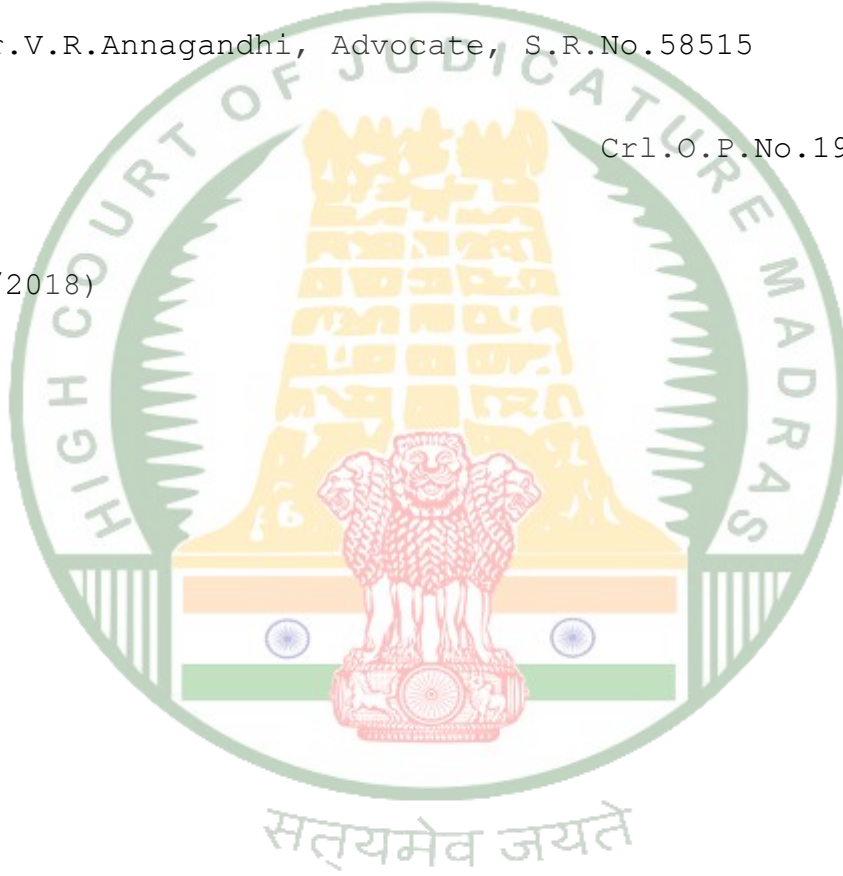
+1cc to Mr.N.Suresh, Advocate, S.R.No.58896

+1cc to Mr.S.C.Vishwanth, Advocate, S.R.No.58955

+1cc to Mr.V.R.Annagandhi, Advocate, S.R.No.58515

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GSP(14/09/2018)



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