



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.(MD) No.2359 of 2018

A.Mariappan

... Petitioner

-Vs-

1.The Commissioner of Police,
O/o.the Commissioner of Police,
Tirunelveli City.

2.The Inspector of Police,
Thatchanallur Police Station,
Tirunelveli.

3.Perumal

... Respondents

Prayer: Criminal Original petition - filed under Section 482 of Code of Criminal Procedure, to direct the second respondent police to register a case based on the petitioner's complaint dated 26.01.2018.

For Petitioner : Mr.S.M.A.Jinnah
For Respondents : Mr.Prabu Ramachandran,
Government Advocate(Crl.side).

O R D E R

This Criminal Original petition has been filed to direct the second respondent police to register a case based on the petitioner's complaint dated 26.01.2018.

2. The learned counsel for the petitioner has submitted that the petitioner has purchased an agricultural land in Survey No.318/1 to an extent of 78 cents in Nayinarkulam village, Tirunelveli District. He further submitted that the proposed accused has filed a suit in O.S.No.390 of 2016 on the file of the learned First Additional District Munsif, Tirunelveli, claiming that he is cultivating in the said land. He further submitted that on 26.01.2018, when the petitioner was working in his land, the proposed accused trespassed in to the land and abused the petitioner and also criminally intimidated him and tried to assault him and hence the petitioner has lodged a complaint before the second respondent on 26.01.2018, but sofar, no action has been taken.

3. The learned Government Advocate (Crl.side) has submitted that after the receipt of the complaint, the enquiry has been



conducted and was closed on 14.02.2018 as the dispute is civil in nature.

4. The learned counsel appearing for the petitioner, by way of reply, has submitted that the police has to register the case, if the complaint discloses any cognizable offence and only after registering FIR, the police can refer the matter. Before that, they have no right to close the complaint.

5. The Honourable Supreme Court, in the case of Lalita Kumari - vs- Govt. of U.P., reported in (2014) 2 SCC 1, has held that if the information received does not disclose a cognizable offence but indicates the necessity for an enquiry, a preliminary enquiry may be conducted only to ascertain whether cognizable offence is disclosed or not. Therefore, nothing is wrong in conducting enquiry. After enquiry, the police has satisfied that the complaint is only civil in nature and hence they have closed the complaint. Therefore, it is open to the petitioner to avail any other remedy, which is available under law.

6. Recording the aforesaid observations, this Criminal Original Petition is disposed of.

Sd/
Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1.The Commissioner of Police,
O/o.the Commissioner of Police,
Tirunelveli City.

2.The Inspector of Police,
Thatchanallur Police Station, Tirunelveli.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.M.A.Jinnah, Advocate, SR.No. 50677

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22.02.2018

SM

KK/GT/21.03.2018/SAR-2/2P-5C