

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated : 05.07.2018****CORAM****THE HONOURABLE MR.JUSTICE D.KRISHNA KUMAR****CrI.O.P. (MD) .No.11142 of 2018****WEB COPY**

N.Thomson

.. Petitioner

Vs.

1.The Superintendent of Police,
Nagercoil,
Kanyakumari District.

2.The Inspector of Police,
Marthandam Police Station,
Marthandam,
Kanyakumari District.

.. Respondents

PRYER: This Criminal Original Petition filed under Section 482 of Criminal Procedure Code to direct the respondents police to register the FIR on the complaint of the petitioner dated 13.06.2018.

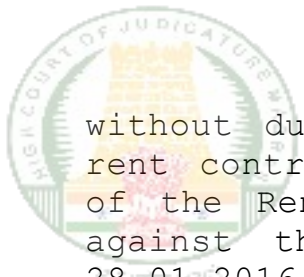
For Petitioner : Mr.N.Sivakumar for R.Murugan
For Respondents : Mr.K.Suyambulingabharathi
Government Advocate (Criminal side)
Mr.Brijesh Kishore
For Intervenor (petition not filed)

ORDER

This petition has been filed seeking a direction to the respondents to register a case based on the petitioner's compliant dated 13.06.2018.

2. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Criminal Side) appearing for the respondents and the learned counsel appearing for the intervenor.

3. According to the petitioner, the petitioner has been running a jewelry shop in the name and style of "Classic Jewellery" from the year 2000, at the premises of one Issac, who is the owner of the building. Since the said Issac tried to forcefully evict the petitioner, the petitioner filed a suit for permanent injunction in O.S.No.561 of 2010 on the file of the learned District Munsif, Kuzhithurai. In the said suit, the petitioner filed an interlocutory application in I.A.No.1089 of 2010 for temporary injunction. On 07.12.2010, in the said Interlocutory Application, the said Issac/owner of the building gave an undertaking that the petitioner would not be evicted



without due process of law. Subsequently, the owner filed a rent control original petition in RCOP.No.1 of 2011 on the file of the Rent Controller (Principal District Munsif), Kuzhithurai against the petitioner and the said petition was allowed on 28.01.2016. Aggrieved over the same, the petitioner filed a rent control appeal in RCA.No.2 of 2016 on the file of the Principal Sub-Court, Nagercoil. The said Rent Control Appeal was dismissed on 24.01.2018. The petitioner was taking steps to file a revision petition against the dismissal of the said rent control appeal. In the meantime, the said Issac locked the petitioner's shop by using another lock after removing the lock used by the petitioner and the name board of the petitioner's shop was also removed. During the said incident, jewels, cash, furniture, wooden show-case and documents worth about Rs.25 lakhs were kept in the petitioner's shop. Hence, the petitioner lodged a complaint to the respondent police against the said Issac/proposed accused on 13.06.2018. But no action has been taken on the said complaint. Hence, the present petition has been filed before this Court.

4. The learned counsel for the intervenor has objected the above said submission. According to him, the petitioner voluntarily handed over the shop to the owner. Thereafter, the petitioner preferred the present complaint. Hence, he prays for dismissal of this petition.

5. When the matter is taken up for hearing, the learned Government Advocate (Criminal side) on instructions, would submit that both the parties have appeared for enquiry and even though the petitioner came with his counsel for enquiry, he did not give evidence to the 2nd respondent police. Moreover, the suit, which was filed by the petitioner was dismissed and the said Issac/owner of the building has got an order against the petitioner in RCOP.No.1 of 2011, on 28.01.2016, to evict the petitioner from his premises. Since, the eviction order was in favour of the owner of the building and the petitioner did not cooperate for enquiry, the respondent police closed the complaint. He also produced a copy of the closure report before this Court.

6. Recording the submission made by the learned Government Advocate (Criminal side), the Criminal Original Petition is dismissed. However, liberty is given to the petitioner to work out his remedy in the manner known to law.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar



To

1.The Superintendent of Police,
Nagercoil,
Kanyakumari District.

2.The Inspector of Police,
Marthandam Police Station,
Marthandam,
Kanyakumari District.

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

+1cc to Mr.R.Murugan, Advocate Sr.No.71368

+1cc to Mr.B.Brijesh Kishore, Advocate Sr.No.71376

PJL

VB/RP/SAR3/19.07.2018/3P/6C

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