

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.918 of 2019

Indus Tower Limited
Rep by its Authorized Signatory
Mr.S.Prasanna,
No.5, ESPEE IT Park,
5th Floor, Jawaharlal Nehru Road,
Ekkatuthangal, Chennai - 600 097.

... Petitioner

Vs.

1. The Superintendent of Police
Nagapattinam District.
2. The Deputy Superintendent of Police,
Vaitheeswaran Kovil,
Nagapattinam District.
3. The Inspector of Police,
Vaitheeswaran Kovil Police Station,
Vaitheeswaran Kovil,
Nagapattinam District.
4. P. Shiva Shankar
(R4 impleaded by an order
dated 07.02.2019 in Crl.MP.No.
1229 of 2019)

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the respondents to provide necessary police protection to the petitioner for the removal of the mobile tower and allied equipment/materials of the petitioner from the premises being about 1000 Sq Ft of building terrace, comprised in Natham Old S.No.131/3, New S.No.416/17 at No.19, Maila Street, Vaitheeswaran Kovil, Nagapattinam District.

For Petitioner	:	Mr.Anil Sandeep
For Respondents	:	
R1 to 3	:	Mr.Mohammed Riyaz Additional Public Prosecutor.
R4	:	Mr.Baubacker Sidhic

O R D E R

This Criminal Original Petition has been filed seeking police protection to the petitioner for the removal of the mobile tower and allied equipment/materials of the petitioner from the premises being about 1000 Sq.Ft of building terrace, comprised in Natham Old S.No.131/3, New S.No. 416/17 at No.19, Maila Street, Vaitheeswaran Kovil, Nagapattinam District.

2. The learned counsel for the petitioner would submit that the petitioner's company entered into an lease agreement with the owner of the premises situated in Natham Old S.No.131/3, New S.No.416/17 at No.19, Maila Street, Vaitheeswaran Koil, Nagapattinam District for using the terrace about 1000 Sq.ft on 01.03.2005 for the period of ten years. From the year 2003, the petitioner taken over his business by putting up the mobile tower in the terrace of the landlord. On 28.02.2015, the lease agreement between the landlord and the petitioner got expired and the negotiations between them to continue the business were not going in the positive direction. Therefore, the petitioner wants to remove the mobile tower built up in the terrace of the premises, for which the owner of the premises objected and did not permit the petitioner to remove the cell phone tower. Hence, on 17.11.2017, the petitioner had sent a representation to the respondents 1-3 seeking police protection to remove the said cell phone tower. Therefore, he sought for police protection form the respondents 1-3 to remove the cell phone tower put up by the petitioner.

3. The learned counsel appearing for the owner of the premises filed an implead petition and submitted that there are rental arrears of Rs.7 to 8 lakhs is pending from the petitioner to the owner of the premises. He further submitted that in fact the owner of the premises asked for the revision of initial monthly rent as Rs.5,000/- instead of originally agreed amount of Rs. 3,000/-. For the said reason, the petitioner had sent an addendum to the original lease agreement agreeing for revising the initial monthly rent from Rs.3,000/- to Rs.3,500/-. Despite having not resolved the requests of the owner of the premises for fixing of proper rent, the petitioner continued to use the premises by conducting his business even after the expiry of lease agreement. Therefore, there is a dispute between the petitioner and the owner of the premises in respect of the rent. Without settling the dispute, the petitioner started taking steps to remove their assets and flee away from the premises. Hence, he prays for dismissal of this petition.

4. The learned Additional Public Prosecutor appearing for the respondents 1-3 submitted that there is landlord-tenant dispute between the petitioner and the owner of the premises. Admittedly, the petitioner and the owner of the premises entered into a lease agreement on 01.03.2005 and it was expired on 28.02.2015. Even then, the petitioner continued his business on the premises owned by the fourth respondent herein, without paying rent. Therefore, there is a landlord and tenant dispute in respect of payment of rent and arrears of rent. The dispute is civil in nature and it is to be resolved through proper civil forum and hence the police protection cannot be given. Therefore, he sought for dismissal of this petition.

5. Heard Mr. Anil Sandeep, learned counsel appearing for the petitioner, Mr. M. Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondents 1 to 3 and Mr. S. Baubacker Sidhic, learned counsel appearing for the fourth respondent/impleaded party.

6. Admittedly, the petitioner along with the impleaded respondent one P. Shiva Shankar had entered into a lease agreement on 01.03.2005 and it was expired on 28.02.2015. Further it is seen from the averments made in the affidavit filed in support of this petition, there is a landlord-tenant dispute between the petitioner and the owner of the premises. According to the owner of the premises, there is an arrear of rent for a sum of Rs. 7 to 8 lakhs. Therefore, the dispute between them is civil in nature, for which the police protection as sought for by the petitioner cannot be granted.

7. In view of the above, this Criminal Original Petition stands dismissed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Superintendent of Police
Nagapattinam District.
2. The Deputy Superintendent of Police,
Vaitheeswaran Kovil,
Nagapattinam District.
3. The Inspector of Police,
Vaitheeswaran Kovil Police Station,
Vaitheeswaran Kovil,
Nagapattinam District.
4. The Public Prosecutor,
High Court of Madras,
Chennai.

+1 cc to M/s.S.Abubacker sidhic, Advocate, S.R.No.11056

CRL.O.P.No.918 of 2019

GP(CO)
SSM(07/03/2019)



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