

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.OP No.5004 of 2018

P.Gunasekaran

.. Petitioner

.Vs.

1. State by Inspector of Police,
C-3, Seven Wells Police Station,
Chennai 600 001

2. Mr.M.M.P.A.Rahumathulla ...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondent police to grant police aid to enable the Petitioner to put compound wall and enjoy the petitioner property bearing door No.19 and 22, North Wall Street, Peddunaickenpet, Chennai 600 079 comprised in Old S.No.6064, R.S.No.604 / 1, present R.S.No.604/3 (part) measuring one Ground 1678 Sq.ft.

For Petitioner : Mr.S.Udhayakumar

For Respondents: Mr.M.Mohammed Riyaz

Additional Public prosecutor
for R1

Mr.S.F.Mohamed Yousuf for R2

ORDER

This Criminal Original Petition has been filed seeking for police protection to enable the petitioner to put up a compound wall around his property.

2. It is seen from records that there is already a Civil suit pending between the parties in O.S.No.2402 of 2016, before the 14th Assistant City Civil Court, Chennai.

3. The Civil Court has passed an order of interim injunction in favour of the petitioner and it is stated that an Appeal is now pending against the said order in C.M.A.No.84 of 2016.

4. The learned counsel for the petitioner submitted that earlier the petitioner had approached this Court seeking for police protection. Based on the interim order granted by the Court below, this Court by an order dated 26.04.2017, directed the respondent police to provide police protection. The

respondent police complied with the said order and police protection was granted to the petitioner, enabling the petitioner to fence his property.

5. The learned counsel for the petitioner submitted that subsequently the 2nd respondent has again removed the fence and thereby, is causing threat to the petitioner and also to the property. Therefore, a complaint was given to the respondent police seeking for police protection to fence the property again. Since the same has not been considered by the respondent police, the present petition has been filed before this Court seeking for police protection.

6. The learned counsel appearing on behalf of the 2nd respondent submitted that admittedly the Civil suit is pending between the parties before the Court below and the police do not have any right to interfere in the dispute. The learned counsel further submitted that this Court cannot parallelly entertain a petition, under Section 482 of Cr.PC for providing police protection to the property.

7. This Court has carefully considered the submissions made on either side and the materials available on record.

8. Admittedly in this case, a Civil Suit is pending between the parties. If there is an interim order in favour of the petitioner and the same is violated, the petitioner has to take steps to file an appropriate application before the Civil Court and work out his remedy. It will even be open to the petitioner to file an application under Section 151 of IPC, seeking for police protection. It is for the Civil Court to consider the facts and circumstances of the case and take a decision in that regard. In the considered view of this Court, the jurisdiction of this Court cannot be parallelly invoked under Section 482 of Cr.Pc. This Court has taken a consistent view in this regard.

9. In view of the above, the relief as sought for by the petitioner cannot be granted by this Court and it will be left open to the parties to agitate their grievance before the Civil Court and the Civil Court shall take a decision, in accordance with law.

10. This Criminal Original petition is disposed of accordingly.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

rka

To

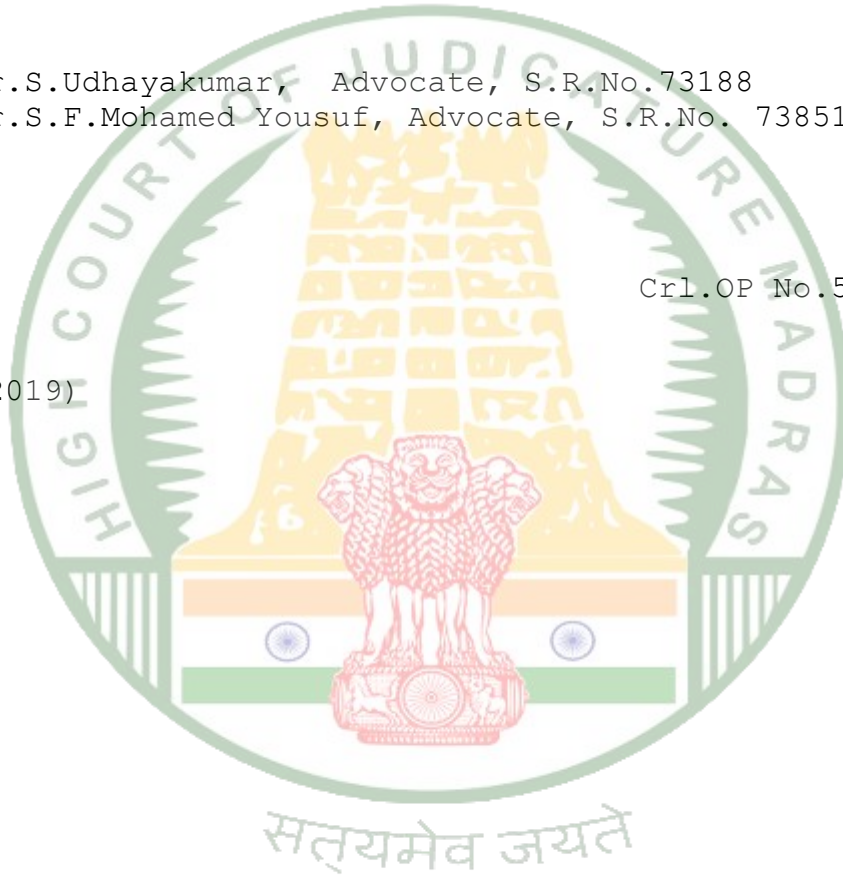
1. The Inspector of Police,
C-3, Seven Wells Police Station,
Chennai 600 001
2. The Additional Public Prosecutor,
High Court of Madras

+1cc to Mr.S.Udhayakumar, Advocate, S.R.No.73188

+1cc to Mr.S.F.Mohamed Yousuf, Advocate, S.R.No. 73851

Cr1.OP No.5004 of 2018

MR(CO)
GN(30/08/2019)



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