

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.21524 of 2019

S.Murugesan

.. Petitioner

-vs-

1.The Superintendent of Police,
Tiruppur.

2.The Inspector of Police,
North Police Station,
Tiruppur.

3.The Superintendent of Police,
CB CID,
Salem.

..Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to transfer the complaint in CSR number 336 dated 20.07.2019, pending investigation on the file of the 2nd respondent to the 3rd respondent or some other agency in order to complete the investigation.

For Petitioner : Mr.N.Senthilkumar

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed seeking for a direction to transfer the complaint pending in CSR.No.336 of 2019 on the file of the 2nd respondent.

2.The grievance of the petitioner is that his brother-in-law viz., Saravanan has filed a suit for specific performance and the same is pending trial in O.S.No.156 of 2016 before the learned II Additional District and Sessions Court, Tiruppur. The defendants in the said suit and their henchmen are now threatening the petitioner and his brother-in-law to withdraw the suit failing which there is a danger to their life and limb. A complaint was given to the 2nd respondent in this regard and

the same was taken on file in CSR.No.336 of 2019 on 20.07.2019. However no action was taken and the threat was continuing. Left with no other option, the present petition has been filed before this Court.

3.The learned counsel for the petitioner submitted that the 4th and 5th defendants in the suit are causing continuous threat to the petitioner and also to the counsel appearing on behalf of his brother-in-law, to withdraw the suit and henchmen are being sent in order to threaten and force the brother-in-law of the petitioner to withdraw the suit. The learned counsel submitted that police are not taken any action on the complaint given by the petitioner. Similarly when a memo was filed before the Court below by bringing to the notice of the Court about the threat faced by the petitioner and his brother-in-law, the Court below has refused to even receive the memo. The learned counsel further submitted that the accused persons have ensured that a fair trial will not be conducted in the suit that is pending in O.S.No.156 of 2016. The learned counsel submitted that what is required now is only a police protection to ensure that the petitioner and his brother-in-law and the counsel are not threatened by the counter party and a fair trial is conducted in O.S.No.156 of 2016.

4.The learned Additional Public Prosecutor on instructions submitted that the complaint given by the petitioner was enquired in CSR.No.336 of 2019. During the course of enquiry, an undertaking was taken from the counter parties to the effect that they will not cause any threat to the petitioner and his brother-in-law. Based on this undertaking, the petitioner is said to have given a letter to the 2nd respondent to the effect that he is withdrawing the complaint and accordingly the complaint itself came to be closed. The learned counsel therefore submitted that since the complaint itself has been closed, the question of transferring the complaint to some other police does not arise in this case.

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

6.The only grievance that has been expressed before this Court by the petitioner is that the petitioner, his brother-in-law and his counsel are being threatened to withdraw the suit that has been filed in O.S.No.156 of 2016 and that the witnesses are being threatened and prevented from giving evidence before the Court.

7.It is reported that the memo filed by the brother-in-law of the petitioner informing the Court about the threat, was not entertained by the Court below.

8.The counter parties have given an undertaking to the respondent police to the effect that they will not cause any threat to the petitioner or his brother-in-law and they will not interfere in the prosecution of the suit. Inspite of this undertaking, the petitioner is apprehending threat and it is stated that the letter was taken from the petitioner by force and thereby the complaint itself has been closed.

9.This Court has to ensure that a fair trial is conducted in O.S.No.156 of 2016 and the parties are allowed to participate in the proceedings freely without being subjected to any threat for life and limb. The Court below ought to have entertained the memo filed by the brother-in-law of the petitioner and conducted an enquiry and should have passed necessary orders. However it looks like the Court below has not even entertained the memo.

10.In view of the above, the closure of the complaint in CSR.No.336 of 2019 is hereby set aside. This complaint is directed to be kept alive and the Court below is directed to entertain the memo filed by the plaintiff in O.S.No.156 of 2016. The Court below viz., the learned II Additional District and Sessions Judge, Tiruppur is directed to conduct an enquiry and find out if there is any threat to the petitioner, his brother-in-law and his counsel. If there is any such threat, a direction shall be given to the 2nd respondent to proceed further in accordance with law. The learned II Additional District and Sessions Judge, Tiruppur shall ensure that the parties are not put to pressure to withdraw the suit in O.S.No.156 of 2016 and the parties shall be permitted to adduce evidence before the Court without any fear. The Court below shall ensure a safe and peaceful atmosphere and shall take the case filed in O.S.No.156 of 2016 to its logical conclusion.

11.This Criminal Original Petition is disposed of with the above directions and with an additional direction that the II Additional District and Sessions Judge, Tiruppur, shall complete the proceedings in O.S.No.156 of 2016, within a period of three months from the date of receipt of copy of this order.

vs

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The II Additional District and Sessions Judge,
Tiruppur.

2. -Do- Thro' The Principal Sessions Judge,
Tiruppur.

3.The Superintendent of Police,
Tiruppur.

4.The Inspector of Police,
North Police Station, Tiruppur.

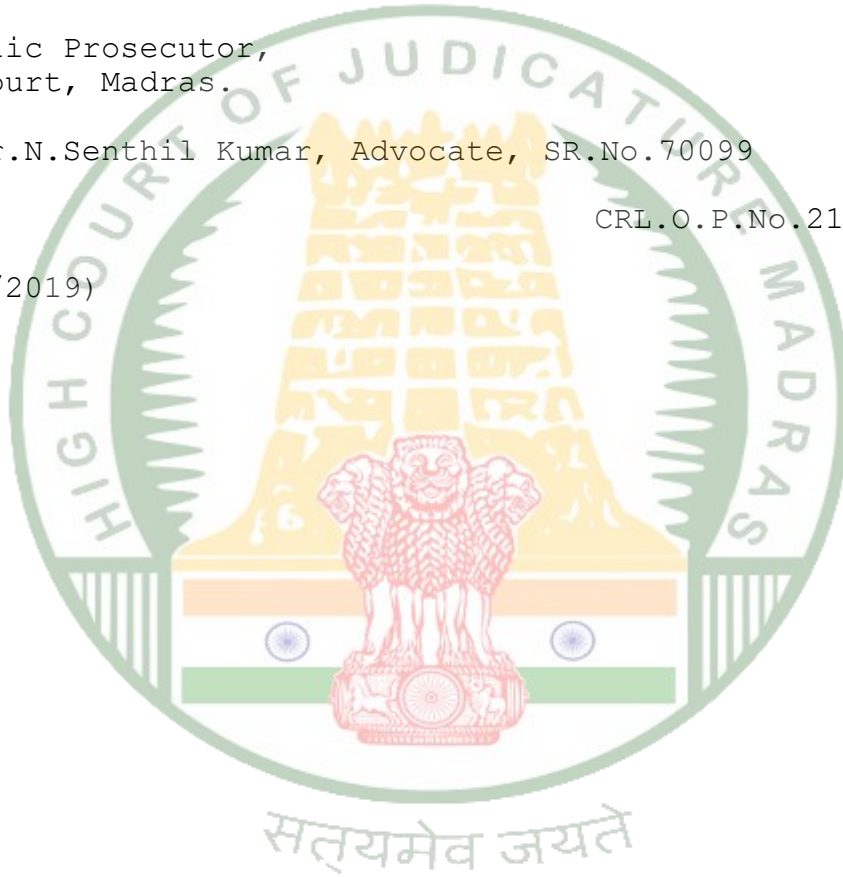
5.The Superintendent of Police,
CB CID, Salem.

6.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.N.Senthil Kumar, Advocate, SR.No.70099

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Kak(20/08/2019)



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