

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.1142 of 2019

Ramalingam

.... Petitioner

Vs

1. The State rep by
The Superintendent of Police,
Tiruvellore.
2. The Inspector of Police,
Ponneri Police Station.
3. Hemakumari
4. Krishnamurthy
5. Gowthami
6. Name not known
Second daughter
of Krishnamurthy

.... Respondents

PRAYER: Criminal Revision Petition is filed under Section 397 and 401 of Cr.P.C., to set aside the order passed by the learned Judicial Magistrate No.I, Ponneri, in dismissing the register complaint petition filed under Section 156(3) of Cr.P.C., in Crl.M.P.No.2232 of 2019 dated 19.09.2019 and direct the first respondent to register the complaint dated 18.07.2019 in C.S.R.No.323 of 2019.

For Petitioner : Mr.M.Soundarvijay Arulram

For Respondents

For R1 & R2

: Mr.M.Mohamed Riyaz

Additional Public Prosecutor

ORDER

This Criminal Revision Petition has been filed to set aside the order passed by the learned Judicial Magistrate No.I, Ponneri in CrI.M.P.No.2232 of 2019 dated 19.09.2019, dismissing the petition filed by the petitioner under Section 156(3) of Cr.P.C., and to direct the second respondent to register the case as against the respondents 3 to 6.

2. The petitioner is the joint owner of the family property measuring 96 cents in Survey No.506/2 situated at Ponneri Railway Station Road, in which he had built 30 shops and rented them. Behind the shops, there is a house which is 100 years old of 800 sq. ft and two houses of 400 sq. ft., each. The petitioner asked the tenants to vacate the houses as they were in dilapidated condition and one of the tenants had vacated the house and another tenant viz., Hemakumari and her family members did not vacate the house and they were giving lot of troubles to the petitioner. Hence the petitioner had given a complaint on 23.03.2016, against the said Hemakumari and her family members and the second respondent police had conducted the enquiry and register the case in C.S.R.No.120 of 2016 and thereafter, the matter was referred to the Revenue Divisional Officer, Ponneri.

3. The Revenue Divisional Officer had rendered findings that the petitioner is the owner of 96 cents land and the house was in a dilapidated condition. Further the Revenue Divisional Officer ordered that the petitioner shall allow the tenant to use the house in the day and none should stay in the night. Further allegation is that the petitioner obeyed the order of the Revenue Divisional Officer, Ponneri, but the said Hemakumari and her family members had violated the order and an objection petition was given by the petitioner, for which the said Hemakumari had approached the Munsif Court, Ponneri and filed a suit in O.S.No.180 of 2016 and till date no interim order has been granted.

4. Later on 01.07.2019, the said Hemakumari and her family members had demolished the front portion of the disputed house and caused damage to the value of Rs.15,000/-. Came to know about the same, the petitioner had gone to the site and objected the same thereby he was abused and threatened with dire consequences by the said Hemakumar and her family members. Again the mater was taken to the respondent police station, where the matter was settled.

5. Once again on 18.07.2019, the said Hemakumari and her family members along with 5 henchmen started to demolish the

front portion and had caused damage to the value of Rs.50,000/-, when the petitioner had gone there, he was threatened of his life and abused by the said Hemakumari and other persons. Hence the petitioner went to the second respondent Police Station and lodged a complaint in C.S.R.No.323 of 2019. However the respondent police did not take any action to stop the said Hemakumari and her family members in doing any further work and kept quiet. Thereafter the petitioner had sent a representation to the Superintendent of Police, Tiruvellore.

6. Since no action was taken by the respondent police, the petitioner had filed a petition under Section 156(3) of Cr.P.C., before the learned Judicial Magistrate No.I, Ponneri on 02.08.2019 in CrI.M.P.2232 of 2019. The learned Judicial Magistrate No.I, Ponneri, by an order dated 19.09.2019, has found that there was a civil suit pending between the parties and also observed that the present petition is abuse of process of Court and dismissed the petition, as against which, the present Criminal Revision Petition has been filed.

7. The learned counsel appearing for the petitioner would submit that specific allegations have been made out as against the said Hemakumari and her husband and two others and henchmen, who had caused damage to the property belongs to the petitioner and the allegations are made out a case for the specific offences under Sections 147, 148, 447, 448, 294(b), 506(2) of IPC and Section 3 of TNPPDL Act. However, the trial Court failed to pass the order directing the respondents police to register a case and to take appropriate action and hence he would pray to set aside the order and seek for directions for registering the case.

8. The learned Magistrate has found that the civil litigation is pending between the parties and after going through the photographs filed by the petitioner, had observed that it seems that a new construction was made and no damage was caused and thereby had dismissed the petition stating that it would be abuse of process of Court directing to register the case.

9. On a perusal of the impugned order, this Court does not find any infirmity warranting the interference from this Court. The learned Judge has passed the order under Section 156 (3) of Cr.P.C. after due application of mind. Further the petition under Section 156(3) of Cr.P.C., has not been filed in the manner as laid down in the judgment reported in (2015) 6 SCC 287 in the case of Priyanka Srivatsava and others Vs. The State of Uttar Pradesh.

10. In the result, this Criminal Revision Petition stands dismissed granting liberty to the petitioner to work out his remedy in the manner known to law.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Judicial Magistrate Court No.I,
Ponneri
2. The Superintendent of Police,
Tiruvellore.
3. The Inspector of Police,
Ponneri Police Station.
4. Through The Chief Judicial Magistrate
Thiruvallur.
5. The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.Soundar Vijay Arul Ram, Advocate SR.90765

SPD(CO)
CB(11/12/2019)

Crl.R.C.No.1142 of 2019

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion standing in front of it. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a green circle around the central image. At the bottom of the seal, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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