

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2019

CORAM

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

Cr1.O.P. No.30398 of 2019

C.R.Tamilvanan

... Petitioner

.vs.

1.State through the Inspector of Police,
Sooramangalam Police Station,
Salem District in Cr.No.386/2016.

2.Sri Ram Equipment Finance,
Company Limited through its
Area Manager,
Theerthamalai Commercial Complex,
Salem.

3.K.Duraisamy

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to transfer the file in Cr.No.386 of 2016 with the Sooramangalam Police Station, Salem to some other Investigation Officer within the jurisdiction of Salem District limits or to any other agency/Investigating Officer that would appropriate.

For Petitioner : Mr.H.Elango

For Respondents: Mr.M.Mohamed Riyaz

Additional Public Prosecutor for R1

ORDER

This petition has been filed by the defacto complainant to transfer the case in Crime No.386 of 2016 from the file of the first respondent to any other agency/Investigating Officer for proper investigation.

2.The learned counsel for the petitioner has submitted that the petitioner herein had entered into an higher purchase agreement with the third respondent/K.Duraisamy and purchased a TATA HITACHI machine. He further submitted that the petitioner has paid entire installments, but even thereafter, the third respondent tried to seize the said TATA HITACHI Machine and hence, the petitioner has filed a suit in O.S.No.16 of 2016, on the file of the Sub Court, Dindigul and

also got status quo order and inspite of the said order, the third respondent has forcibly seized the said machine on 11.05.2016 and hence, the petitioner has lodged a complaint before the first respondent, but did not register FIR. He further submitted that the petitioner has filed CrI.O.P.No.10841 of 2016 to direct the police to register FIR and the said petition was allowed and only thereafter FIR in Cr.No.386 of 2016 was registered on 22.06.2016. He further submitted that the third respondent has filed CrI.O.P.No.24374 of 2016 before this Court to quash the FIR. This Court by the order dated 09.04.2019 has dismissed the said petition. However, liberty was given to the third respondent to produce the relevant documents before the first respondent. He further submitted that the petitioner has made a request with the first respondent to investigate the matter and file final report before the concerned Court, but so far, the first respondent has not taken any action to file final report and hence the petitioner is having doubt that the first respondent will not take any action and therefore he prayed to transfer the investigation to some other Agency/Officer.

3.Per contra, learned Additional Public Prosecutor submitted that in pursuance of the order passed by this Court in CrI.O.P.No.24374 of 2016, the third respondent had appeared before the first respondent and produced the documents. Further, the petitioner himself has filed a suit in O.S.No.16 of 2016 on the file of the Additional Sub-Judge, Dindigul. He further submitted that after taking into consideration of the aforesaid facts, the matter was referred as mistake of fact and to that effect the petitioner was already informed and hence this petition is not maintainable.

4.Considering the fact that already a Civil Suit is pending and also of the fact that the matter has been referred as mistake of fact, it is open to the petitioner to file protest petition before the concerned Magistrate and work out his remedy.

5.With the above observations, the Criminal Original petition is disposed of.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

tta

To

1.The Inspector of Police,
Sooramangalam Police Station,
Salem District in Cr.No.386/2016.

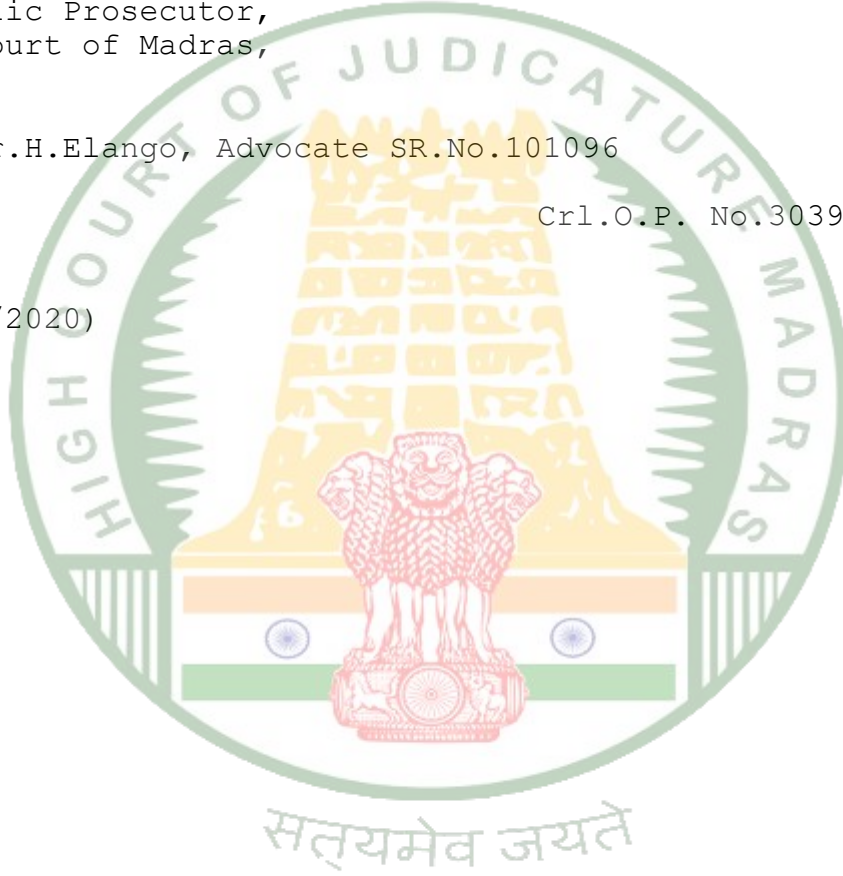
2.Sri Ram Equipment Finance,
Company Limited through its
Area Manager,
Theerthamalai Commercial Complex,
Salem.

3.The Public Prosecutor,
High Court of Madras,
Madras.

+1cc to Mr.H.Elango, Advocate SR.No.101096

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KK(CO)
GMY(29/01/2020)



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