



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2019

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Cr1.O.P.No.33103 of 2019

A.Bakkiyalakshmi

...Petitioner

-Vs-

- 1.State rep.by
Superintendent of Police
Kancheepuram District
Kancheepuram.
- 2.State Rep.by
Inspector of Police
Vishnu Kanchi Police Station
Kanchipuram.

3.Vani

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to pass orders directing the second respondent not to harass the petitioner under the guise of conducting enquiry except under due process of law.

For Petitioner	: Mr.K.M.Balaaaji
For Respondents	: Mr.M.Mohamed Riyaz for R1 Additional Public Prosecutor
	: Mrs.S.Vidya for R2

ORDER

This petition has been filed to direct the second respondent not to harass the petitioner under the guise of conducting enquiry except under due process of law.

2. The learned counsel for the petitioner has submitted that the petitioner is in possession of a house situated in No.22 Bavaji Street, Chinna Kanchipuram and the said house was



built up by petitioner's father 45 years ago, and the land belongs to Bavaji Mutt. He further submitted that the third respondent's husband by name Sivakumar had filed a false case in O.S.No.235 of 2019 on the file of the District Munsif, Kanchipuram to restrain the petitioner herein from interfering with his peaceful possession and enjoyment of the suit property therein and during pendency of the said suit, with the help of police, the third respondent forcefully evicted the petitioner from the premises and demolished the said house. He further submitted that after forcefully evicting the petitioner, the third respondent had withdrawn the said suit and hence, he requests to direct the respondent police not to harass the petitioner under the guise of enquiry.

3. The learned Additional Public Prosecutor who is appearing for the respondents 1 and 2 has submitted that based on the complaint of the third respondent, an FIR has been registered against the petitioner herein in Cr.No.624/2019 under Sections 448, 294(b), 323 and 506(ii) of IPC and Section 4 of the Tamil Nadu Women Harassment Act and Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act. He further submitted that the petitioner also has lodged a complaint against the third respondent and based on the same, CSR.No.746/2019 has been issued. He further submitted that since FIR has been registered against the petitioner with regard to cognizable offences, the respondents 1 and 2 are entitled to arrest the petitioner if the investigation requires and therefore, he prayed to dismiss the petition.

4. The learned counsel for the third respondent has submitted that the third respondent is the absolute owner of the property which is under dispute and he has leased out front portion to one Jothi and the back portion to the petitioner herein. She further submitted that the said Jothi had vacated the said portion and handed over the possession to the third respondent on 07.10.2019 and thereafter, the petitioner tried to occupy the said portion also and hence, the third respondent has filed a suit against the petitioner herein in O.S.No.235 of 2019 on the file of the District Munsif, Kanchipuram and the same is still pending and the said suit has not been withdrawn by the third respondent as alleged by the learned counsel for the petitioner. She further submitted that since already FIR has been registered against the petitioner, this petition is not maintainable.



5. Though the learned counsel for the petitioner has submitted that after filing O.S.No.235 of 2019, the third respondent forcefully evicted the petitioner, he has not produced any material to substantiate the same. Further if the petitioner was forcefully evicted, it is open to her to file a suit to restore the possession. Further the petitioner has not produced any material to show that the third respondent has withdrawn a suit in O.S.No.235 of 2019.

6. Since already FIR has been registered against the petitioner, the respondent police is entitled to investigate the matter and during investigation if the arrest is required, they can arrest the petitioner in accordance with law. But instead of doing so, they should not unnecessarily harass the petitioner.

7. With the above observation, this Criminal Original Petition is disposed of.

Sd/-
Asst.Registrar (CO)

/true copy/
Sub Asst. Registrar

dna

To

1.The Superintendent of Police
Kancheepuram District
Kancheepuram.

2 The Inspector of Police
Vishnu Kanchi Police Station
Kanchipuram.

3.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.K.M.Balaji Advocate sr104740

+2 cc to Mr.R.S.Vaideeswaran Advocate sr104848 dt:09/01/2020

Cr1.O.P.No.33103 of 2019

aa09/01/2020

aa09/01/2020

3/6