



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.04.2019

CORAM:

THE HONOURABLE **MR. JUSTICE N. SESHASAYEE**

CrI.O.P. (MD) No.4931 of 2019

Dheva Santhakumari

... Petitioner

/Vs./

1.The Superintendent of Police,
Tirunelveli District, Tirunelveli.

2.The Inspector of Police,
Tenkasi Police Station,
Tirunelveli District.

3.Thirumalaikumar

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C to direct the 1st and 2nd respondent Police not to harass the petitioner and his family members without due procedure of law.

For Petitioner : Mr.K.Selvam

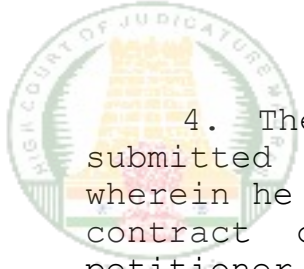
For R-1 & R-2 : Mr.V.Neelakandan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the 1st and 2nd respondents not to harass the petitioner and his family members without due procedure of law.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor.

3. The learned counsel appearing for the petitioner submitted that the third respondent had entered into an agreement to purchase certain plots from the petitioner, that the petitioner had earlier obtained an advance amount of Rs.5,00,000/-, that as the third respondent was not ready to perform his part of the contract, the petitioner was constrained to sell the properties to the third parties and that he had even repaid the advance sum received from the third respondent. Now, the second respondent is after the petitioner, presumably based on the complaint of the third respondent.



4. The learned Additional Public Prosecutor on instructions submitted that the third respondent has preferred a complaint wherein he accuses the petitioner committing breach to the aforesaid contract of sale of an immovable property belonging to the petitioner. The respondent police have neither harassed the petitioner nor intended to harass him.

5. The said statement of the learned Additional Public Prosecutor is recorded. *Prima facie* the facts as narrated expose a classic civil dispute. If it is so, the second respondent necessarily has to step aside. If however the complaint discloses *prima facie* commission of any cognizable offence, necessarily the investigating Agency should follow the principles in the judgment reported in **2013 (6) CTC 353 [Lalitha Kumari Vs. Government of Uttar Pradesh]** case. If on the other hand the second respondent considers that it is necessary to hold any preliminary enquiry / interrogation, the same shall be done only on summons under Section 41 A Cr.P.C., mentioning a specific date and time for enquiry and also giving reasonable time for him to travel to the venue of such enquiry. The petitioner is also directed to co-operate with the enquiry. During enquiry, there shall not be harassment to the petitioner.

6. Accordingly, this criminal original petition is disposed of.

Sd/-

Assistant Registrar(Crl.Side)

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Sub Assistant Registrar(CS)

To

- 1.The Superintendent of Police,
Tirunelveli District, Tirunelveli.
- 2.The Inspector of Police,
Tenkasi Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.SELVAM, Advocate in SR-59029

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