



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2019

CORAM:

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

Crl.O.P. (MD) No. 4981 of 2019

Muthukaruppan

... Petitioner

/Vs./

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

2. The Inspector of Police,
Y.Othakadai Police Station,
Y.Othakadai, Madurai District.

3. Nirmala

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C to direct the 2nd respondent not to harass the petitioner and his family members by interfering with the matter purely civil in nature.

For Petitioner : Mr.T.Vadivelan

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

ORDER

This Criminal Original Petition has been filed to direct the 2nd respondent not to harass the petitioner and his family members by interfering with the matter purely civil in nature.

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 second respondent police is harassing the petitioner.

4. The learned Additional Public Prosecutor submitted that the petitioner mortgaged the property to the third respondent without including the petitioner's sons and did not repay the money. He further submitted that the third respondent is the mortgagee of the petitioner's property and she has preferred a complaint for recovery of the mortgaged money. 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. The statement discloses that the case is a classic civil dispute in which the police has no role to interfere.

6. This Court now directs the respondent police that if 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]**. 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.

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

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

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

2. The Inspector of Police,
Y.Othakadai Police Station,
Y.Othakadai, Madurai District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC TO Mr.M/SILAMBARASAN, ADVOCATE IN SR No.59449

CrI.O.P. (MD) No.4981 of 2019
03.04.2019

SM

PK/02.05.2019 : 2P/5C