



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2019

CORAM:

THE HONOURABLE **MR. JUSTICE N. SESHASAYEE**  
Cr1.O.P.[MD]No.5351 of 2019

M.Abdul Rahuman : Petitioner

/Vs./

- 1.The Commissioner of Police,  
Madurai City.
- 2.The Assistant Commissioner of Police,  
Anti Land Grabbing Special Cell, Madurai City.
- 3.The Inspector of Police,  
Anti Land Grabbing Special Cell, Madurai City.
- 4.R.Vijayalakshmi
- 5.A.K.Ahamed : Respondents

[R-5 is impleaded vide order of this Court dated  
25.04.2019 in Cr1.M.P.(MD)No.3683 of 2019]

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to issue a direction to the second respondent not to interfere into civil dispute while the civil suit in O.S.No.163 of 2019 pending on the file of the District Munsif Court, Madurai District and thereby not to harass the petitioner under the guise of enquiry.

For Petitioner : Mr.P.Senguttuarasan  
For R-1 to R-3 : Mr.V.Neelakandan  
Additional Public Prosecutor  
For R-5 : Mr.Ajmal Khan  
Senior Counsel  
For Ajmal Associates

**ORDER**

This petition is filed to direct the second respondent not to interfere into civil dispute while the civil suit in O.S.No.163 of 2019 pending on the file of the District Munsif Court, Madurai District and thereby not to harass the petitioner under the guise of enquiry.

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 petitioner entered into a sale agreement with one Raghavan and he had paid substantial amount as part of the sale consideration and that he was permitted to be in occupation of two rooms of the building in the property covered by the sale agreement. However, this agreement is executed on 09.05.2016, but suppressing the same, the property was now sold to the fifth respondent by the fourth respondent, who is Raghavan's wife. He added that the petitioner under these circumstances was constrained to institute a suit in O.S.No.163 of 2019 for specific performance.

4. The learned counsel appearing for the fifth respondent submitted that the fourth respondent is the original owner and to the knowledge of the fifth respondent, sale agreement of the petitioner is a fabricated document. He also added that the suit is laid for bare injunction and no interim order was obtained, but the petitioner broke open the lock and occupied that.

5. The learned Additional Public Prosecutor submitted that a complaint given by the fifth respondent is pending enquiry. The respondent police have neither harassed the petitioner nor intended to harass him. The said statement of the learned Additional Public Prosecutor is recorded.

6. If the complaint discloses any dominant civil overtone, the parties may have to work out their remedy before the Civil Court, if however the complaint discloses commission of any cognizable offence, the third respondent is directed to follow the dictum in the case of **Lalitha Kumari Vs. Government of Uttar Pradesh** [2013 (6) CTC 353]. If on the other hand the third 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 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(CO)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The District Munsif, Madurai District.

2. The Commissioner of Police,  
Madurai City.

3. The Assistant Commissioner of Police,  
Anti Land Grabbing Special Cell,  
Madurai City.

4. The Inspector of Police,  
Anti Land Grabbing Special Cell,  
Madurai City.

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

+1CC TO MR.AJMAL ASSO., Advocate Sr. No.63039

+1CC TO MR.P.SENGUTTURASAN, Advocate Sr. No. 63228

Crl.O.P.[MD]No.5351 of 2019

**[2/2]**

NR(CO)

ES (13.06.2019) 3P 8C