



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.04.2019**

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P.[MD].No.14753 of 2015

and

M.P.(MD)No.1 of 2015

A.Ramasamy

: Petitioner

Vs.

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

2.The Inspector of Police,
Singampunari Police Station,
Singampunari,
Thiruppathur Taluk,
Sivagangai District.

3.The Sub Inspector of Police,
Singampunari Police Station,
Singampunari,
Thiruppathur Taluk,
Sivagangai District.

4.R.Murthy

: Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents 1 to 3 from interfering with the civil dispute which is pending adjudication in O.S.No.57/2015, O.S.No.66/2015 and 108/2015 between the petitioner and the fourth respondent on the file of the District Munsif Cum Judicial Magistrate, Thiruppathur.

For Petitioner : Mr.D.Sadiqraja

For R1 to R3 : Mr.R.Anandaraj

For R4 : Mr.N.Balakrishnan

ORDER

This petition has been filed to forbear the respondents 1 to 3 from interfering with the civil dispute which is pending adjudication in O.S.No.57/2015, O.S.No.66/2015 and 108/2015 between the petitioner and the fourth respondent on the file of the District Munsif Cum Judicial Magistrate, Thiruppathur.

<https://hcservices.ecourts.gov.in/hcservices/>

2. On 12.04.2019, this Court has passed the following order:-



" Alleging that the respondents 1 to 3 are interfering with the civil dispute by way of issuing summons, the petitioner has filed this writ petition seeking a Writ of Mandamus, forbearing the respondents 1 to 3 from interfering with the civil dispute, which is pending adjudication between the petitioner and the fourth respondent in O.S.Nos.57, 66 & 108 of 2015, on the file of the District Munsif cum Judicial Magistrate, Thiruppathur.

2. The learned Additional Public Prosecutor, on instructions, submitted that they have received a complaint from the fourth respondent, on account of which, they have issued the summons for conducting the enquiry. Only after conducting the enquiry, they would be in a position to ascertain as to whether it is civil dispute or not and only thereafter, they would advise the parties to work out their remedy before the civil Court.

3. But, a very reading of the complaint of the fourth respondent would show that he himself has stated about the civil suits pending between the parties. When the matter is sub judice before the civil Court, the fourth respondent, contending that the petitioners have taken away the Coconuts from his land, has approached the police.

4. Under such circumstance, the Officer, who issued the summons, is directed to file an affidavit narrating the circumstance under which he issued the summons after knowing the fact that it is a civil dispute. The Officer is also directed to be present before this Court on the next hearing date.

5. Post the matter on 22.04.2019."

3. Pursuant to the order dated 12.04.2019, Mr.P.Muniasamy, the then Sub-Inspector of Police, Singampunari Police Station, Singampunari, Sivagangai District, who issued summons. Now, he is working as the Sub-Inspector of Police, Thudiyalur Police Station, Coimbatore District, and filed an affidavit with the following averments:-

4. originally, the petitioner herein is the father and the 4th respondent is his eldest son. On 19.04.2015, the 4th respondent lodged a complaint against the petitioner and his other sons namely Aadhavan by alleging that they had disturbed his enjoyment over the property in S.No.467/10 which absolutely stands in his name.

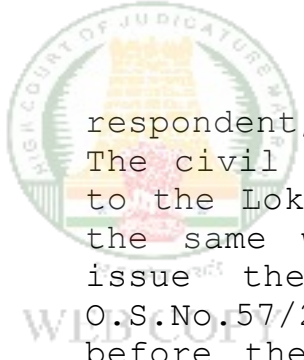


Since, the dispute between the 4th respondent and the petitioner was civil in nature, the then Inspector of Police, Singampunari had closed the said complaint on 19.04.2015 by directing them to approach the appropriate civil court for other remedies. On the date of the said closure of the said complaint i.e., on 19.04.2015, I was not working in the Singampunari Police Station and hence I did not aware of the said facts.

5. thereafter, I joined in Singampunari Police Station on 09.08.2015 as Sub-Inspector of Police. Within few days from the date of assuming duty thereon, on 12.08.2015, the 4th respondent herein came to the police station and lodged a complaint against the petitioner and one Sivalingam that they had trespassed in the 4th respondent's belonging property and took the tender coconuts illegally. The further complaint of the said complaint was that he already filed a civil suit in O.S.No.108/15 on the file of the learned Munsif Court, Thiruppathur in which summons were served on the defendants including the petitioner and even after receiving the summons, the petitioner did not appear before this Court, on the other hand, he committed the above said act of trespass and other offence. On receipt of the said complaint, since I found the possibilities of commit of offences under IPC and was not having knowledge about the closure of the 4th respondent's earlier complaint dated 19.04.2015, I entertained the 4th respondent's complaint dated 12.08.2015 and issued a complaint receipt in CSR.No.174/2015 and subsequently issued summons to both the parties to attend the enquiry on 13.08.2015.

6. on 13.08.2015 the 4th respondent was not present for inquiry and hence I issued one more summon to the petitioner as well as the 4th respondent in which the 4th respondent had attended and the petitioner had not attended. In the meanwhile, I came to know that the petitioner had already filed injunction suits in O.S.No.57/2015 and 66/2015 on the file of the learned District Munsif Court, Thiruppathur against the 4th respondent in respect of the property which is situated in S.No.538/5A, and 467/10 respectively. Then only, I also came to know that the 4th respondent already lodged a similar complaint on 19.04.2015 and the same was closed on the very same day by the then Inspector of Police, Singampunari."

4. The learned counsel for the respondents 1 to 3 would also submit that the issue is between the father and son. The fourth



respondent, who is none other than the son of the petitioner. The civil disputes pending between the parties have been referred to the Lok Adalath by the District Munsif Court, Thiruppathur and the same were closed as the parties have amicably settled the issue themselves. Hence, the civil proceedings pending in O.S.No.57/2015, O.S.No.66/2015 and O.S.No.108/2015 were closed before the Lok Adalath. The respondent police has also taken a specific stand that the complaint dated 12.08.2015 in C.S.R.No.174/2015 was also closed.

5. Therefore, no further direction is required in this petition. Hence, this petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The District Munsif Cum Judicial Magistrate,
Thiruppathur.
- 2.The Superintendent of Police,
Sivagangai District, Sivagangai.
- 3.The Inspector of Police,
Singampunari Police Station,
Singampunari,
Thiruppathur Taluk,
Sivagangai District.
- 4.The Sub Inspector of Police,
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Sivagangai District.

DSS

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and
M.P. (MD) No.1 of 2015
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