

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2020

CORAM :

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.28309 of 2019

Pitchaikaran

... Petitioner

Vs

1.The Special Sub Inspector of Police,
Kariyalur Police Station,
Villupuram District.

2.Andi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code to direct the 1st respondent to provide police protection to the petitioner agricultural land situated at Survey No.130/1, to an extent of 1.14 Hec., Survey No.130/2, to an extent of 1.98 hec., in total both the survey numbers to an extent of 3.12 Hec. of Agricultural land, situated at Malliampadi Kira boundary, Malliampadi Village, Chinnasalem Taluk, Villupuram District, on the basis of the complaint dated 09.03.2019 and subsequent complaint dated 10.10.2019.

For Petitioner : Mr.S.Venkatesh.

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor for R1.

Mr.Suganthan for Mr.N.Manokaran for R2.

W E B C O P Y
O R D E R
(through Video Conference)

This Criminal Original Petition has been filed seeking for a direction, to direct the 1st respondent to provide police protection to the petitioner agricultural land situated at Survey No.130/1, to an extent of 1.14 Hec., Survey No.130/2, to an extent of 1.98 hec., in total both the survey numbers to an extent of 3.12 Hec. of Agricultural land, situated at

Malliampadi Kira boundary, Malliampadi Village, Chinnasalem Taluk, Villupuram District, on the basis of the complaint dated 09.03.2019 and subsequent complaint dated 10.10.2019.

2.Heard Mr.S.Venkatesh, learned Counsel appearing for the Petitioner and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing on behalf of the first respondent and Mr.Suganthan, learned Counsel appearing for the second respondent.

3.Today, when the petition is came up for hearing, the learned Additional Public Prosecutor appearing on behalf of the first respondent police, on instructions, would submit that in respect of the representation given by the Petitioner, the first respondent Police has initiated the enquiry in C.S.R.No.29 of 2019 and after due enquiry, the same was closed on 18.12.2019. Therefore, according to him, as of now, no representation is pending on the file of the first respondent police.

4.However, the learned Counsel appearing for the Petitioner would submit that before submitting the representation before the first respondent police, the petitioner filed a suit in O.S.No.30 of 2017 before the Sub Court, Kallakurichi. Further, in the above suit, while at the time of disposal of the interim application in I.A.No.143 of 2017, the learned Sub Judge, Kallakurichi granted an order of injunction in favour of the petitioner in respect of the above referred properties.

5.Now, on considering the rival submissions of the learned Counsel appearing on either sides with relevant records, I am of the opinion that since the petitioner is already obtained an interim order in his favour from the Civil Court, it is for him to file an application before the Court which passes the interim order mentioning, as the respondent violated the order passed in the interim application, under the provisions of Order 21 of Civil Procedure Code, in otherwise, the application filed under Section 482 of Criminal Procedure Code for police protection cannot be entertained.

6.At this juncture, it is relevant and useful to see the Judgment of our Hon'ble Apex Court reported in "2007 2 MLJ CRL 1792" in a case of "Hamida Vs.Rashid" wherein our Hon'ble Apex Court has held as follows;

"....In appeal this Court set aside the order of the High Court after reiterating the principle that it is well settled that inherent power is not to be invoked in respect of any matter covered by specific provisions of the code or if its exercise would infringe any specific provision of the code. It was further observed that the high Court overlooked the

procedural law which empowered the convicted accused to prefer statutory appeal against conviction of the offence and intervened at an uncalled for stage and soft-pedalled the Course of justice at a very crucial stage of the trial. The order of the High Court was accordingly set aside on the ground that a petition under Section 482 of Cr.P.C. could not have been entertained as the accused had an alternative remedy of an appeal as provided in the code. It is not necessary to burden this Judgment with other decisions of this Court as the consistent view throughout has been that a petition under Section 482 of Cr.P.C. cannot be entertained if there is any other specific provision in the Code of Criminal Procedure for redress of the grievance of the aggrieved party."

Therefore, since the specific provision is available for the relief prayed by the petitioner, the application under Section 482 of Criminal Procedure Code is not maintainable.

7. In view of the above, after granting liberty to the petitioner for filing necessary application before the competent Civil Court, this petition is closed.

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

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To

1. The Special Sub Inspector of Police,
Kariyalur Police Station,
Villupuram District.

2. The Public Prosecutor,
High Court of Madras,
Chennai.

+1 CC to Mr. N.Manohar, Advocate Sr.No.33851

Cr1.O.P.No.28309 of 2019

UM(CO)
cs 19/12/2020