



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

CRL OP (MD)No.10531 of 2020

M.Kandasamy

... Petitioner

Vs.

- 1.The State Rep. by
The Commissioner of Police,
Commissioner's Office,
Tiruchirappalli.
- 2.The Inspector of Police,
K.K.Nagar Police Station,
Tiruchirappalli.
- 3.The Inspector of Police,
Edamalaipatti Pudur Police Station,
Tiruchirappalli.

4.M.Rajarathinam

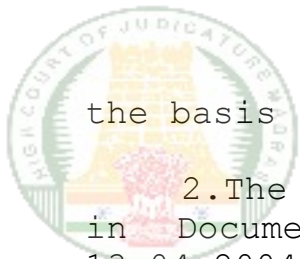
... Respondents

PRAYER: Petition filed under Section 482 of Criminal Procedure Code, praying to direct the respondents 1 to 3 to provide appropriate police protection to the petitioner's life and limb in order to maintain and clean his own properties comprised in T.S.Nos.5/1A, 5/1B, 5/1C, 5/24, 5/25, 5/26, 5/27, 5/28, 5/29, 5/30, 5/31, 5/32 and 5/33 of K.Abishekapuram Village, Tiruchirappalli District, on the basis of the petitioner's representation dated 23.09.2020.

For Petitioner : Mr.V.Balaji
For R1 to R3 : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

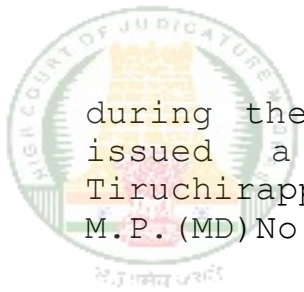
This Criminal Original Petition has been filed seeking direction, to direct the respondents 1 to 3 to provide appropriate police protection to the petitioner's life and limb in order to maintain and clean his own properties comprised in T.S.Nos.5/1A, 5/1B, 5/1C, 5/24, 5/25, 5/26, 5/27, 5/28, 5/29, 5/30, 5/31, 5/32 and 5/33 of K.Abishekapuram Village, Tiruchirappalli District, on



the basis of the petitioner's representation dated 23.09.2020.

2.The case of the petitioner is that by virtue of Sale Deeds in Document Nos.2161/2004 dated 13.05.2004, 2191/2004 dated 13.04.2004, 2190/2004 dated 13.05.2004, 2294/2004 dated 26.05.2004, 2803/2004 dated 28.06.2004, 2794/2004 dated 28.06.2004, 2162/2004 dated 13.05.2004, 2845/2004 dated 17.05.2004, 3203/2004 dated 09.07.2004 and by way of Sale Certificate in Document No.3783/2002, he purchased properties measuring an extent of 14.22 Acres comprised in T.S.Nos.5/1A, 5/1B, 5/1C, 5/24, 5/25, 5/26, 5/27, 5/28, 5/29, 5/30, 5/31, 5/32 and 5/33 of K.Abishekapuram Village, Tiruchirappalli District. After the said purchase, the petitioner became the absolute owner of the said properties and consequently, the said properties are in his possession.

3.In respect of the purchase of the said properties, the fourth respondent herein gave a complaint against the petitioner and instigating others to file a Civil Suit. But, the complaint given by the fourth respondent was closed by the Assistant Commissioner of Police, Anti Land Grabbing Special Cell, Trichy, vide Na.Ka.No.76/AC/ALGSC/TRC/2011, as action dropped. However, another one complaint has also been made against the petitioner, for which, a case has been registered in Crime No.14 of 2013, on the file of the Inspector of Police, Anti Land Grabbing Special Cell, Cantonment, Tiruchirappalli. In this regard, the petitioner herein and two other co-accused had filed Crl.O.P.(MD)Nos.17648, 18232 and 18233 of 2013 before this Court and seeking the relief to quash the said F.I.R. This Court, by common order dated 23.04.2018, allowed the said Criminal Original Petitions and accordingly, a case registered in Crime No.14 of 2013 against the petitioner was quashed. Aggrieved over the same, the fourth respondent herein filed S.L.P.(Crl.)Nos.7618 to 7620 of 2018 before the Hon'ble Apex Court, but the Hon'ble Apex Court, vide order dated 17.09.2018, dismissed the said Special Leave Petitions and accordingly, the common order passed by this Court dated 23.04.2018, in Crl.O.P.(MD)Nos.17648, 18232 and 18233 of 2013, was made absolute. Similarly, in respect of the petition mentioned properties, one Duraisamy Gunaseelan, Duraisamy Venkateswaran, Duraisamy Vigneshwaran, R.Pushpavathy and R.Premavathy, filed a Suit in O.S.No.228 of 2009 against the petitioner, for declaration and injunction, before the III Additional District Munsif Court, Tiruchirappalli, was struck off by this Court in C.R.P.(PD)(MD) Nos.1181 and 1182 of 2018, dated 02.08.2018. Against the said order, the fourth respondent herein filed S.L.P.(C)Nos.12470 and 12471 of 2019 before the Hon'ble Apex Court, but the Hon'ble Apex Court, vide order dated 03.07.2019, dismissed the said Special Leave Petitions, by upholding the order passed by this Court, dated 02.08.2018, C.R.P.(PD)(MD)Nos.1181 and 1182 of 2018 and also



during the pendency of Crl.O.P.(MD)No.17648 of 2013, this Court issued a direction to the Inspector of Police, ALGSC, Tiruchirappalli, to give police protection to the petitioner, in M.P.(MD)No.2 of 2013, dated 28.11.2013.

4.In the said circumstances, recently, at the request made by the neighbouring land owners, the petitioner visited his properties and attempted to clean the properties by cutting the standing thorns and bushes. At that time, the fourth respondent herein along with others came there and obstructed the petitioner by using filthy language and further, they attacked the petitioner, apart from damaging and stealing the machineries kept for cleaning the petitioner's properties and therefore, it is necessary to direct the respondents 1 to 3 to provide adequate police protection.

5.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents 1 to 3.

6.Though it was submitted on the side of the petitioner that on 23.09.2020, a representation has been made to the respondent Police seeking police protection, the learned Additional Public Prosecutor appearing for the respondents 1 to 3 submitted that no such application was received from the petitioner. However, the learned Additional Public Prosecutor undertakes that upon receipt of the representation dated 23.09.2020, which is said to have been given by the petitioner, the respondents 1 to 3 are ready to initiate enquiry.

7.Now, in the said circumstances, it is necessary to find out whether the petitioner is entitled to get a positive order from this Court in respect of police protection.

8.In this regard, the learned counsel appearing for the petitioner relied upon the order passed by this Court, dated 23.04.2018, in Crl.O.P.(MD)Nos.17648, 18232 and 18233 of 2013. In the said order, it was observed by this Court that the Vendors of the petitioner filed a Suit for declaration and injunction, in which, the competent Civil Court passed an order in favour of the Vendors of the petitioner. More than that, the suit filed by Duraisamy Vagaiyara was struck off by this Court. Ultimately, the said situation concludes that the petitioner becomes the lawful owner to the petition mentioned properties. In the said circumstances, the fourth respondent and others have to interfere with the petitioner's possession, only after obtaining order from the competent Civil Court. Otherwise, interfering with the other's possession is nothing but an illegal act.



9. In the said circumstances, since this Criminal Original Petition has been filed for the relief to provide police protection, it is necessary to see the judgment of this Court in **S.Girinivasa Prasad Vs. State of Tamil Nadu, Rep. by its Secretary, Home Department, Chennai and others [W.P.(MD)No.13133 of 2011, dated 20.12.2011]**, wherein it has been held as follows:-

'16. Therefore, from the law laid down in the above decisions, it is clear

(i) that there should be a clear threat perception to the life and property of a person, to enable him to seek police protection;

(ii) that such perception should be based on some material worth considering;

(iii) that the Superintendent of Police should examine the request for protection on an objective basis, after collecting necessary data; and

(iv) that if a decision is taken by the competent authority on a scientific basis, this Court will not easily interfere with such a decision, unless the decision is tainted.'

10. Now, applying the said principles to the case on hand, here it is a case, where the petitioner herein was having various litigations with the fourth respondent from the year of 2013 onwards. Further, in respect of the property right, the fourth respondent went upto the Hon'ble Apex Court by way of filing Special Leave Petitions and the same were decided in favour of the petitioner. Therefore, it is obvious that the fourth respondent is having enmity with the petitioner. Therefore, it is appropriate to direct the third respondent to examine the request of the petitioner with reference to all the attending circumstances and pass appropriate orders in accordance with law, shifting the focus from the fiscal to the physical aspects. The third respondent shall examine whether there is any threat to the life and property of the petitioner and pass appropriate orders within a period of two weeks from the date of receipt of a copy of the representation given by the petitioner, dated 23.09.2020.

11. This Criminal Original Petition is disposed of with the above direction.

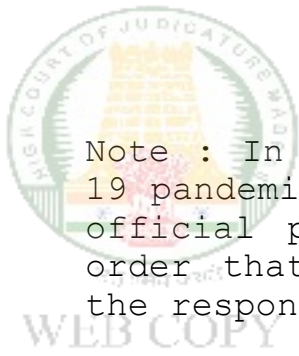
Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Commissioner of Police,
Commissioner's Office,
Tiruchirappalli.
- 2.The Inspector of Police,
K.K.Nagar Police Station,
Tiruchirappalli.
- 3.The Inspector of Police,
Edamalaipatti Pudur Police Station,
Tiruchirappalli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V. BALAJI, Advocate (SR-18435[F] dated 30/09/2020)

CRL OP(MD)No.10531 of 2020
28.09.2020

SJ(CO)
TR(07.10.2020) 5P 6C