



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CrI.O.P(MD)No.13118 of 2020

Beniginas

... Petitioner

vs.

1)The State of Tamilnadu,
Rep. by the Superintendent of Police,
Kanyakumari District,
at Nagercoil.

2)The Inspector of Police,
Nithiraivilai Police Station,
Kanyakumari District.

3)Rethinamma

... Respondents

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to pass appropriate order directing the 2nd respondent not to harass the petitioner.

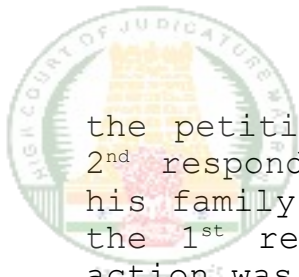
For Petitioner	: Mr.A.Rajkumar
For R1 & R2	: Mr.V.Neelakandan
	Additional Public Prosecutor

ORDER

The present petition has been filed to pass appropriate order directing the 2nd respondent not to harass the petitioner.

2.The learned counsel for the petitioner would state that the property in Re.Sy.No.289/2A, Old S.No.1622 admeasuring 62.200 cents was the subject matter in O.S.No.311/1963, wherein a judgment and decree was passed in favour of six owners by demarcating boundaries. Since boundary demarcation is not effected till date and property has not been sub-divided and patta ia not transferred in the individual names, legal heirs of the fifth owner namely, Innasi created a fake patta and based on which created a fraudulent settlement deed and to strengthen the said document, one Bensikar with 93 others instituted a suit in O.S.No.82/2019 for the relief of partition and separate possession of 5/6 shares and the said suit is pending. While so, the 3rd respondent with transgressed intention to encroach the property in Re.Sy.No.289/2A, filed CRL.OP(MD) No.6181/2019 seeking police protection to enjoy the property in Re.Sy.No.289/2A and this Court while declining to give police protection, made an observation that the Police may take appropriate

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the petitioner therein, but misapplying the above observation, the 2nd respondent/Police is continuously harassing the petitioner and his family members. Therefore, the petitioner sent a complaint to the 1st respondent on 19.03.2020 through registered post, but no action was taken. Hence, this petition.

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3.The learned Additional Public Prosecutor would state that the 3rd respondent made a complaint against the petitioner and the petitioner is not co-operating for the enquiry and failed to appear before the 2nd respondent/Police.

4.Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor. In view of the order going to be passed, notice to the 3rd respondent is not necessary.

5.Considering the facts and circumstances of the case, this Criminal Original Petition is disposed of with a direction to the respondents 1 and 2 to follow the principles laid down by the Hon'ble Apex Court in ***D.K.Basu Vs. State of West Bengal reported in AIR (1997) SC 610*** while enquiring the petitioner.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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.

1)The Superintendent of Police,
Kanyakumari District at Nagercoil.

2)The Inspector of Police,
Nithiraivilai Police Station,
Kanyakumari District.

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

ORDER MADE IN
CrI.O.P(MD)No.13118 of 2020
DATED : 23.11.2020

SSS(CO)

TR(04.12.2020) 2P 4C

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