



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Cr1.O.P (MD)No.13613 of 2020

Elenchezhian

... Petitioner

Vs

1.State represented by
The Superintendent of Police
Pudukottai
Pudukottai District

2.The Inspector of Police
Karambakudi Police station
Pudukottai District

3.The Sub Inspector of Police
Malaiyoor Police Station
Pudukottai District

4.Meenakshi
5.Muruganatham
6.Thiyagarajan

... Respondents

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure, to issue a direction directing the third respondent not to harass the petitioner under the guise of an enquiry.

For Petitioner : Mr.S.Poornachandran

For R1 to R3 : Mr.V.Neelakandan,
Additional Public Prosecutor

For R4 & R6 : Mr.R.Meenakshi Sundaram

For R5 : Mr.G.Sridharan

O R D E R

This Criminal Original Petition has been filed to issue a direction directing the third respondent not to harass the petitioner under the guise of enquiry.

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



2. The learned counsel for the petitioner would submit that the fifth respondent is the brother of the petitioner and the fourth respondent is the wife of the fifth respondent. The sixth respondent is the father of the petitioner and he has four children including the petitioner. They are all living as a joint family. They have undivided joint family property in S.Nos. 163/15B, 163/20, 163/21A at Kanakankaadu Village, Karambakudi Taluk, Pudukottai District. There was a property dispute between petitioner and the respondents 4 to 6, for which, the fourth respondent preferred a civil suit in O.S.No.35 of 2020 before the District Munsif Court, Alangudi and it is pending. The petitioner had filed a detailed written statement in the said suit. The grievance of the petitioner is that when the civil suit is pending, the sixth respondent with connivance the respondents 4 and 5, in order to evict the petitioner from the property, lodged a false complaint as against the petitioner to the third respondent police. Based on the complaint, the respondent police registered a case in Crime No.297 of 2020 for the offence under Sections 294(b), 323, 506(ii) I.P.C. Against which, the petitioner and his wife obtained conditional anticipatory bail in Cr.M.P.No.3909 of 2020 before the learned Principal District and Sessions Judge, Pudukottai. Thereafter, the fifth respondent once again preferred a false complaint against the petitioner to the third respondent, for which, the third respondent called the petitioner to appear for enquiry and the petitioner also appeared and explained everything in detail. However, the third respondent police insisted the petitioner to vacate the property, even though the petitioner states that the civil suit is still pending. The grievance of the petitioner is that the third respondent frequently called the petitioner and harassing him under the guise of enquiry. Therefore, the petitioner made a representation to the respondents 1 and 2 on 16.11.2020, but so far, no action has been taken. Hence, the present petition.

3. The learned counsel for the sixth respondent would submit that in a civil suit, there is an order of interim injunction in favour of the sixth respondent. Though the injunction order has been obtained, the petitioner had given a complaint to the respondent police. He further submitted that the petitioner has suppressed the fact that the sixth respondent had obtained an order of interim injunction.

4. The learned Additional Public Prosecutor appearing for the respondents 1 to 3, on instructions, would submit that the respondents 4 and 6 who are brother and father of the petitioner had given a complaint to evict the petitioner from the property in dispute and based on the complaint, the respondent police had registered a case in Crime No.297 of 2020 for the offence under Sections 294(b), 323, 506(i) I.P.C. The petitioner and his wife had also obtained conditional anticipatory bail before the Court below.

<https://hccases.hccourt.madras.gov.in/hccases/cr/13613> The learned Additional Public Prosecutor further submitted that only



for the purpose of enquiry, the respondent police called the petitioner and they are not harassing him.

5.Heard the learned counsel on either side.

6. Based on the complaint given by the 6th respondent, FIR has already been registered in Crime No.297 of 2020 and the 6th respondent has obtained an order of interim injunction before the Court below and the petitioner's remedy is to approach the civil forum to work out his remedy. Considering the facts and circumstances of the case, if the petitioner is required for any enquiry, the respondents/police shall enquire the petitioner by following the guidelines in the Judgement of the Hon'ble Apex Court in ***D.K.Basu Vs. State of West Bengal reported in AIR (1997) SC 610.***

7.With the above direction, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

msa

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 Superintendent of Police
Pudukottai
Pudukottai District
- 2.The Inspector of Police
Karambakudi Police station
Pudukottai District
- 3.The Sub Inspector of Police
Malaiyoor Police Station
Pudukottai District
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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



+1cc to Mr.R.Meenakshi Sundaram, Advocate Sr.No.23438

+1cc to Mr.G.Sridharan, Advocate Sr.No.23284

Crl.O.P (MD) No.13613 of 2020

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30.11.2020

SV2 (CO)

NR (05/01/2020) 4P : 7C