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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.No. 1692 of 2018
and
Crl.M.P.No.643 of 2018

1. Sivasubramaniyan
2. Gopalakrishnan
3. Jagadeesan

...Petitioners

Vs.

The State represented by :
The Revenue Divisional Officer,
Erode District,
Erode.

2.The Inspector of Police,
Erode North Police Station,
Erode.

...Respondents

Prayer:

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to call for the records sequel to the order passed by the first respondent/Revenue Divisional Officer, Erode District in Na.Ka.En:177/2018 A-2, dated 12.01.2018 and quash the same.

For Petitioners : Mr.R. Thirumoorthy
For Respondents : Mr.Shanmuga Rajeshwaran
Government Advocate

O R D E R

According to the petitioners, they were running a hotel viz., Sai Foods in the property, which belonged to one S.K.Saraswathi. Lease agreement was entered into in the year 2016 between the petitioners and the owner of the premises. It is the further case of the petitioners that they have been paying the rent regularly. Whiles, on 27.11.2017, when the 1st petitioner was out of town, the owner of the house viz., S.K.Saraswathi and her son Naveen Kumar along with their henchmen trespassed into the hotel and stolen all the articles



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including some important documents, money and also demolished a part of the superstructure. They also attempted to dispossess the petitioners from the premises. When the petitioners questioned the act of the said Saraswathi, they were threatened with dire consequences and the petitioners were directed to vacate the premises immediately. Against the said act, the petitioners lodged a complaint which was registered in Crime No.864/17. But, thereafter, no action has been taken by the 2nd respondent. Though the first respondent is vested with power to conduct an enquiry under Section 145 of Cr.P.C., however, no action has been taken on the complaint given by the petitioners. Instead of taking action against the perpetrators of the offence, the police, in connivance with those persons, are threatening the petitioners, which prompted the petitioners to give a representation before the Superintendent of Police, Erode, but still no action has been taken to resolve the issue.

2. It is the further averment of the petitioners that as against the inaction of the police and harassment meted out to them, the petitioners filed Crl. O.P. No.27533/17 and the said petition was allowed by this Court on 13.12.17 and despite the direction of this Court to take action on the representation of the petitioners, no action was taken by the respondents. In spite of the registration of FIR and direction by this Court to take action against the offenders, no action has been taken against them, but instead the petitioners are being targeted by the police and threats are being meted out to them. In spite of the above, the respondents have issued summons for the appearance of the petitioners for the enquiry pertaining to the hotel dispute. Aggrieved by the same, the present petition has been filed by the petitioners.

3. Heard the learned counsel for the petitioner as well the learned Government Advocate appearing for the respondent.

4. There exists a dispute relating to some property, which was in occupation of the petitioners under a lease agreement with one Saraswathi, is not in a dispute. The further fact that pursuant to certain acts, the petitioners have lodged a complaint against the said Saraswathi, which was also registered and inaction on the part of the respondents in dealing with the said crime led to the filing of Crl. O.P. No.27533/2017 in which this Court has given certain directions, while safeguarding the interests of the petitioners. However, presently, it is the case of the petitioners that in utter disregard to the FIR as also the directions issued by this Court in the earlier round of litigation, the respondents are harassing the petitioners to come for an enquiry by issuance of the impugned proceedings and, therefore, the same deserves to be interfered with.



5. A perusal of the order passed in Crl. O.P. No.27533/17 clearly reveals that this Court has safeguarded the interests of the petitioners herein while issuing a slew of directions to the law enforcing agency. It is not the case of the respondents that issue in the said petition before this Court was entirely different and it did not border on the present issue. Therefore, it is presumed that the issue while this Court had considered was the very same issue with which this Court is at present dealing. Such being the case, the respondents are duty bound to adhere to the directions issued by this Court in Crl. O.P. No.27533/17. However, in utter defiance to the said directions, the respondents have gone once over and issued the present impugned proceedings, which is nothing but going beyond the orders passed by this Court, which cannot be allowed to sustain.

6. Further, it is to be pointed out that the dispute relates to some property belonging to one Saraswathi and if at all the said Saraswathi has any grievance, the proper course open to the said party should be to approach the competent civil court and redress her grievance and it is not open to coat the civil dispute with a criminal colour and seek redressal through the criminal mechanism. The Courts have consistently deprecated such acts and have also directed the law enforcing agency to act within its bounds in relation to matters which have civil consequences. The present case squarely falls under the said parameter. Even in the earlier round of litigation, this Court had directed the respondents not to harass the petitioners. However, in utter defiance of the said directions passed by this Court, the respondents have issued the impugned order for conduct of enquiry u/s 145, which is wholly unsustainable.

7. For the reasons aforesaid, the impugned order passed by the first respondent/Revenue Divisional Officer, Erode District in Na.Ka.En:177/2018 A-2, dated 12.01.2018 is quashed and the criminal original petition is allowed. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

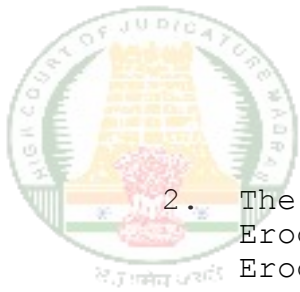
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Sub-Assistant Registrar

msm

To

1. The Revenue Divisional Officer,
Erode District,
Erode.



2. The Inspector of Police,
Erode North Police Station,
Erode.

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

+1 CC to Mr. Thirumoorthy, Sr 22926.

Crl.O.P.No. 1692 of 2018

RSV(CO)
LS(19/07/2021)