



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.10690 of 2021

R.Marimuthu

... Petitioner

Versus

1.The Superintendent of Police
Sathuvachari
Vellore.

2.The Deputy Superintendent of Police
Vellore.

3.The Inspector of Police
Ariyalur Police Station
Gudiyatham.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the third respondent to register the First Information Report on the petitioner complaint dated 05.09.2020 and file a FIR within time frame as fixed by this Court.

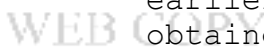
For Petitioner : Mr.C.Anbu
for Mr.M.R.Thangavel

For Respondents: Mr.A.Damodaran
Government Advocate (Crl. Side)

ORDER

This petition has been filed to direct the third respondent to register the First Information Report on the petitioner's complaint dated 05.09.2020 and file a final report.

2. The petitioner had sent a complaint to the third respondent on 07.09.2020 and also a copy to the first respondent. However, no enquiry has been properly conducted. Thereafter, under the guise of enquiry, the petitioner as well as the counter party were called by the Sub-Inspector of Police attached to the third respondent police and it was informed that



3. The contention of the petitioner is that he had earlier approached the Civil Court in O.S.No.23 of 2014 and obtained favorable order vide its judgment dated 22.07.2014. Thereafter, the property was registered in Doc.No.11746 of 2015. The petitioner later filed an Execution Petition in E.P.No.11 of 2016 and the Execution Petition is ordered in his favour. On 21.12.2016, the property was delivered to the petitioner by bail leaf in the presence of the Village Administrative Officer and the Sub-Inspector of Police attached to Ariyalur Police Station. The bail leaf had given a possession certificate, which was marked as a document in the typed set. Again one Dhasarathan threatened the petitioner, using his muscle and money power and disturbed the peaceful possession and enjoyment of the petitioner. Thereafter, the said Palani, S/o Dhasarathan and Parthiban, S/o of Dhasarathan are disturbing the peaceful possession and enjoyment of the petitioner. The respondent police has informed that no action will be taken against the complaint. Hence, he filed the present petition seeking direction to the Inspector of Police to register the complaint of the petitioner dated 05.09.2020 and also to give necessary protection to his property and the same may be monitored by the Deputy Superintendent of Police.

4. The learned Government Advocate (CrI.Side) has submitted that in this case, the third respondent has received the complaint along with current papers from the Superintendent of Police in G-1/1/007066/269/2021 dated 01.04.2021. Thereafter, a notice dated 03.05.2021 was issued asking the petitioner to appear on 04.05.2021. On the receipt of the notice, the petitioner did not respond to the respondents. The counter party namely, Dhasarathan had appeared on 07.05.2021 and gave his explanation. The petitioner has not co-operated with the enquiry and for his non-cooperation, the complaint was closed.

5. Considering the above and the materials available on record, it is seen that the petitioner is aged about 56 years and he is a non-cooperating person. The petitioner obtained the property as per the order of the Civil Court. Thereafter, he filed an Execution Petition and bail leaf had handed over the possession of the property to the petitioner in the presence of the Village Administrative Officer, and Sub-Inspector of Police and counter party. Thereafter, the said Dhasarathan has been creating disturbance and threatening the petitioner of his peaceful possession and enjoyment. The enquiry which was conducted by the third respondent, viz., Anbazhagan, who was recently suspended for involvements in a criminal case. This Court in the case of Radhika Sri Hari & another vs. The



Commissioner of Police, Coimbatore City, Coimbatore & another reported in 2014 2 LW 927, while dealing with similar set of facts by relying on the relevant Government Order, had held that in such cases, the police protection has to be given in order to enable the owner of the property to secure his property.

6. In view of the same, this Court directs the respondent police to give protection to the petitioner and his property. Further, the complaint of the petitioner has to be enquired by the Inspector of Police and thereafter, if any cognizable offence is made out, the same shall be proceeded further. The above proceedings shall be monitored by the Deputy Superintendent of Police, Vellore.

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

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Superintendent of Police,
Sathuvachari,
Vellore.
- 2.The Deputy Superintendent of Police,
Vellore.
- 3.The Inspector of Police,
Ariyalur Police Station,
Gudiyatham.
4. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.10690 of 2021

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srg 20/07/2021