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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON:	15.09.2021
DELIVERED ON:	21.09.2021

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

and

THE HON'BLE MS. JUSTICE R.N. MANJULA

W.A. No.2368 of 2021 & C.M.P. No.15130 of 2021

Azizul Karim

...Appellant

vs.

1 P.S. Kirubakaran

2 The Commissioner of Police
EVK Sampath Road
Vepery, Chennai 600 007

3 The Joint Commissioner of Police
T.H. Road
Tondiarpet, Chennai 600 081

4 The Deputy Commissioner of Police
Flower Bazaar Police Station
Chennai 600 001

5 The Inspector of Police
N-3, Muthiyalpet Police Station
Broadway, Chennai 600 001

6 Syed Ahmed Ammal

7 Rahman

...Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 17.08.2021 passed in W.P. No.2517 of 2021.

Prayer in WP.No.2517 of 2021: Writ Petition filed under Article 226 Constitution of India, to issue Writ of Mandamus, to direct the respondents 1 to 4 to provide police protection to the petitioner's life and property situated in Old Door No.129 and New Door No.98 in Coral Merchant Street, (Pavalakara Street),



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Mannadi, Chennai - 600001 comprised in T.S.No.2973, Block No.27, measuring to an extent of 2163 sq.ft.,

For appellant : Mr. M. Anandaraaj

For R1 : Mr. Arun Anbumani
for Mr. B. Vijay

For RR 2 to 5 : Mr. R. Muniyapparaj
Government Advocate (Crl. Side)

JUDGMENT

P.N. PRAKASH, J.

This intra-Court appeal is directed against the order dated 17.08.2021 passed in W.P. No.2517 of 2021.

2. The facts in brief leading to the institution of this intra-Court appeal are as under:

2.1 One P.S. Kirubakaran, (the first respondent herein), filed a writ petition being W.P. No.2517 of 2021, seeking police protection for his life, and property situated in Old Door No.129 (New Door No.98), Coral Merchant Street, Mannadi, Chennai - 1, in which, official respondents 2 to 5 herein, who are police officials, were arrayed as respondents 1 to 4 and Azizul Karim, the appellant herein and Syed Ahmed Ammal and Rahman, respondents 6 and 7 herein, were arrayed as respondents 5 to 7 respectively.

2.2 In the said writ petition, Kirubakaran levelled many an allegation against Azizul Karim, the gist of which is that, the latter is a land grabber and that he is attempting to illegally grab his (Kirubakaran's) aforesaid property by fabricating records.

2.3 After hearing all the parties, a learned single Judge of this Court, by order dated 17.08.2021, granted the relief sought by Kirubakaran with the following observations:

"38. Further, the above facts clearly expose as to how the fifth respondent projected himself as Advocate Clerk, Advocate and Judicial Officer by creating forged documents and by using the address i.e., No.4, Jaffer Syrang Street, Mannadi, Chennai. He was also using the said address for running real estate broker business. He is also sending Court notices and thereafter, filing Civil cases before the Court below and this Court. After obtaining exparte order, using the same, he threatened the real owners and occupants to extract money, thereby making the justice delivery system a mockery. He has been carrying on all these activities



in a well planned manner with the aid of battery of persons including legal professionals, muscle men and others to execute his deeds.

39. The sixth respondent is the wife and seventh respondent is the brother-s son of the fifth respondent, through them, he had attempted to encroach upon the property and take away the possession of the petitioner even when the fifth respondent was in prison. This would show how powerful a person he is, and able to execute such things, even, while in prison. Later for the act of the seventh respondent, a case has been registered and investigation is under progress. In view of the above, this Court feels that it is absolutely necessary to provide police protection to the petitioner-s life and property, situated in old door No.129 and new door No.98, Coral Merchant Street, (Pavalakara street), Mannadi, Chennai ? 600001, comprised in T.S.No.2973, Block No.27, measuring to an extent of 2163 sq.ft.

40. This Court feels this case needs elaborate and detailed investigation at the rank of Senior Police Officer. The third respondent/The Deputy Commissioner of Police, Chennai, is directed to ensure the protection of the property. This Court feels that it is necessary that the case in Crime No.68 of 2020, filed against the fifth respondent has to be investigated by a Senior Police Officer in the rank of Deputy Superintendent of Police, not only this case, even the case in Crime No.20 of 2021, pending before the Inspector of Police, N3 Muthialpet Police Station, which is an off shoot of this case, is also hereby ordered to be transferred to the file of Investigating officer, who is to investigate the case in Crime No.68 of 2020.

41. The Investigating Senior Police Officer to ascertain and find out other cases pertaining to the fifth respondent to be transferred and take up for investigation by the same investigating officer, who is to investigate, from now in a comprehensive manner and file a final report, without delay. This direction is necessitated since the fifth respondent claimed himself as an Advocate clerk, Advocate, Real Estate broker, filed several cases before the Courts and obtained orders and it is a clear forgery committed on the Court and its proceedings.

42. The fifth respondent was found in possession of identity cards projecting himself as Judicial



officer cannot be taken lightly. In view of the above, the above orders are necessary. If any obstacle is faced by the Investigating Officer, he can approach this Court.

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43. With the above observations and directions, the Writ Petition is allowed. No costs. Consequently, the Writ Miscellaneous Petitions in W.M.P.No.4682 of 2021, W.M.P.No.14539 of 2021 and W.M.P.No.13630 of 2021, filed by the respondents side are dismissed and W.M.P.No.2844 of 2021 is closed."

2.4 Aggrieved by the aforesaid order passed by the learned single Judge, Azizul Karim, fifth respondent in the writ petition, has preferred the instant intra-Court appeal invoking Clause 15 of the Letters Patent.

3. At the outset, pertinent it is to state that this intra-Court appeal is not maintainable, in the light of the authoritative pronouncement of the Supreme Court in Ram Kishan Fauji vs. State of Haryana and others¹, wherein, it has been held that, where a single Judge exercises criminal jurisdiction under Article 226 of the Constitution of India and passes an order, an intra-Court appeal thereagainst under Clause 15 of the Letters Patent, cannot be maintained. Further, the judgment in Ram Kishan Fauji (supra) has also been followed by two Division Benches of this Court in Sorimuthu vs. K. Thiruvadi and 4 others² and D. Kumar vs. Raichand Daga and Others³.

4. The observations and directions issued in the impugned order extracted in paragraph 2.3 (supra) clearly show that the learned single Judge has exercised criminal jurisdiction.

In view of the above, this intra-Court appeal is dismissed as not maintainable. Costs made easy. Connected C.M.P. is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

cad

¹ (2017) 5 SCC 533

² W.A (MD) No.499 of 2020 decided on 31.07.2020

³ (2020) 6 MLJ 245



To

1 The Commissioner of Police
EVK Sampath Road
Vepery
Chennai 600 007

2 The Joint Commissioner of Police
T.H. Road
Tondiarpet
Chennai 600 081

3 The Deputy Commissioner of Police
Flower Bazaar Police Station
Chennai 600 001

4 The Inspector of Police
N-3, Muthiyalpet Police Station
Broadway
Chennai 600 001

5 The Public Prosecutor
High Court of Madras
Chennai 600 104

+2 Ccs to Mr.M.Anandaraj, Advocate, Sr.No. 48129.

W.A. No.2368 of 2021

GMR(CO)
LS(08/10/2021)