



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2021

CORAM:

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THE HONOURABLE MR.JUSTICE **G. ILANGO VAN, J.**

Crl.O.P.(MD)No.6300 of 2021

Y.Arockiarajkumar

... Petitioner

Vs.

1. The Superintendent of Police,
Sivagangai District.

2. The Deputy Superintendent of Police,
Sivagangai,
Sivagangai District.

3. The Inspector of Police,
Elayangudi,
Sivagangai District.

4. The Inspector of Police,
CBCID,
Sivagangai District.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to withdraw the FIR in Crime No.383 of 2020 dated 16.10.2020 on the file of the third respondent police and direct the first respondent to transfer the investigation of the same to some other independent agency or competent officer or 4th respondent other than the third respondent and investigate the matter and file final report within a stipulated time fixed by this Court.

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.R.M.Anbunithi

Additional Public Prosecutor.

ORDER

This Criminal Original Petition has been filed seeking a direction to withdraw the FIR in Crime No.383 of 2020, dated 16.10.2020, on the file of the third respondent police and direct the first respondent to transfer the investigation of the same to some other independent agency or competent officer or to the 4th respondent other than the 3rd respondent and investigate the matter and file the final report within a time frame to be fixed by this Court.

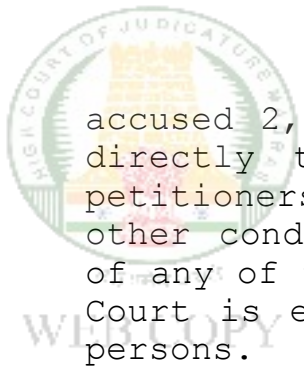


2. The case of the prosecution is that the petitioner purchased the punja land in S.No.20/1 to an extent of 1 Hec. 69.5 acres in Karaikulam, Thayamangalam, Elaiyangudi Taluk, Sivagangai District by means of registered sale deed in Doc.No.1/1998/2019 dated 23.12.2019. Subsequently, patta also was granted in the petitioner's name in the village records and the petitioner is in possession and enjoyment of the same till now. In these circumstances, when the petitioner was cultivating the said land, the following persons namely 1. Santhakumar, son of sathaiya, 2. Lakshmanan son of Panjavarnam, 3. John Pandian son of Kaveri, 4. Ilangovan son of Rmanathan 5. Murugesan son of Ramanathan, 6. Kathiresan son of Ramanathan 7. Mayakannan son of Thangaraj and other village people, interfered with this cultivation land and stated that they will worship God Muniyappa in the land and therefore, the land belongs to their Temple.

3. The petitioner was threatened by the aforesaid persons and therefore, the above said land was measured by the Revenue Officials in the presence of police officials. But, the above said persons did not allow the petitioner to erect fence and boundary stones over his patta land. Subsequently, they made a petition to the District Collector and RDO, Sivagangai. On receipt of such petition, an enquiry was conducted by the Tahsildar, Sivagangai.

4. On perusal of records, it could be seen that Peace Committee Meeting was conducted, wherein the above said persons had submitted that the land belongs to the Temple. Since the above said persons did not produce any records, their petition was dismissed by the Tahsildar, Sivagangai vide proceedings dated 15.09.2020. Even thereafter, the above said persons and other persons hindered the petitioner from cultivating his land. Hence, the petitioner was constrained to send his representation dated 21.09.2020 to the District Collector, Sivagangai and to the first respondent requesting them to take action against the above said persons. Thereafter, on 13.10.2020, the petitioner erected fence and boundary stones over his above said patta land in S.No.20/1 measuring an extent of 1 Hec.69.5 acres in Karaikulam, Thayamangalam, Elaiyangudi Taluk, Sivagangai District in the presence of the Village Administrative Officer, Karaikulam, Revenue Divisional Officer and the 3rd respondent herein.

5. On 13.10.2020, the above said accused persons and others unlawfully trespassed the petitioner's land and damaged the fence worth about Rs.3.45 lakhs and looted the same. On receipt of complaint dated 16.10.2020 preferred by the petitioner, FIR was registered in Crime No.383/2020 under Sections 147, 148, 379 (NH) and 427 of the Indian Penal Code. Since the cost of damage is a huge one, the offence registered in the FIR was altered in Crime No.383/2020 under Sections 147, 148, 379 (NH) and 427 of IPC and Section 3 of TNPPDL Act. The first and fourth accused were <https://hcservices.tn.gov.in/hcservices>, A2, A3 and A5 to A10 filed anticipatory bail petition before this Court in Crl.OP.(MD).No.13433 of 2020 and this Court granted bail with a condition that the above said



accused 2, 3, 5 to 10 are directed to pay a sum of Rs.2,00,000/- directly to the defacto complainant and on such payment, the petitioners/accused persons are ordered to be released on bail and other conditions by its order dated 26.11.2020 and on any breach of any of the aforesaid conditions, the learned Magistrate / Trial Court is entitled to take appropriate action against the accused persons.

6. Accused 1 and 4 filed a petition for bail in Crl.OP.(MD). No.13691 of 2020 before this Court. This Court granted bail with a condition that each of the accused persons shall deposit a sum of Rs.50,000/- to the credit of Crime No.383 of 2020 pending on the file of the learned Judicial Magistrate, Elaiyangudi without prejudice to their defense before the trial Court. Thereafter, the accused persons 2, 3 and 5 to 10 filed modification petition before this Court in Crl.MP.(MD).No.7747 of 2020 in Crl.OP.(MD). No.13433 of 2020. This Court dismissed the same by its order dated 23.12.2020. Even after the expiry of the above said order dated 23.12.2020, the third respondent has not taken any action against them. Hence, the petitioner was constrained to send representation dated 17.03.2020 to the first and third respondents to take action against the accused persons for not obeying the order of this Court, but of no use.

7. Taking advantage of the inaction of the third respondent, on 25.03.2021, the accused persons along with other persons, trespassed into the petitioner's land and started to give trouble with life threat to the de facto complainant. He had also sent a complaint through online and also in person on 11.04.2021 and CSR.No.278 of 2021 issued on 12.04.2021. But there is no action and the petitioner's efforts went on vain.

8. The reasons for the inaction of the third respondent on his representation are not known to the petitioner and there are circumstances to believe that the third respondent is acting in conspiracy with the accused. The act of the third respondent is nothing but "Fence Grazing the Crops". The petitioner apprehends that fair justice will not be rendered to him, if the third respondent proceeded with the investigation. According to the learned counsel for the petitioner, the grievance of the petitioner is that the second respondent did not take any action to secure the accused persons. Hence, this Criminal Original Petition is filed.

9. The learned Additional Public Prosecutor would submit that based upon the complaint given by the petitioner, investigation was conducted and totally six witnesses have been enquired and statements have been recorded and several accused persons were absconding.

10. In view of the above facts and circumstances, there shall be a direction to the third respondent to complete the investigation and file the final report within a period of five months from the date of receipt of a copy of this order.



11. With these directions, this Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

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, shall be the responsibility of the advocate/litigant concerned.

To

1. The Superintendent of Police,
Sivagangai District.
2. The Deputy Superintendent of Police,
Sivagangai,
Sivagangai District.
3. The Inspector of Police,
Elayangudi,
Sivagangai District.
4. The Inspector of Police,
CBCID,
Sivagangai District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD) No. 6300 of 2021

14.06.2021

RK(06/12/2021) 4P 6C