



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 10.08.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.10056 of 2021

R.Ravindran

... Petitioner

Vs.

1.The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram District.

2.The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram District.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to direct the respondent police to alter the FIR No.287/2021, dated 08.07.2021 for suitable offence.

For Petitioner : Mr.S.Haja Mohideen Gisthi
For Respondents : Mr.R.M.Anbu Nithi,
Additional Public Prosecutor.

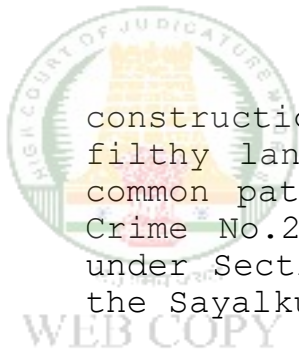
ORDER

This Criminal Original Petition is filed seeking a direction to the respondent police to alter the First Information Report No.287/2021, dated 08.07.2021 for suitable offence.

2. The case in Brief:-

The petitioner is working as employee under one Deena Dayalapandian. The said Deena Dayalapandian, purchased a property to an extent of 27 cents in S.Nos.78/1B 1B, 78/1B1C situated at Kannirajapuram Village, Kadaladi Tluk, Ramanathapuram District. He is in absolute possession of the property and on 07.07.2021, he tried to construct a compound wall, which was prevented by one Sundramahalingam and others. They entered into premises with deadly weapons and caused life threat upon the petitioner and the other persons and tried to encroach the property also. So, a case has been registered, on the basis of the complaint, given by the petitioner, in CSR.No.23 of 2021, on the very same day itself.

3. Subsequently, the petitioner visited the property and at that time also, the said Sundramahalingam and the other persons entered into the premises and prevented the petitioner from proceeding with the further construction work and damaged the



construction worth about Rs.1.50 lakhs. Further, they abused them in filthy language and tried to attack their employees. They claimed common pathway in the property. So, a case has been registered in Crime No.287 of 2021, dated 08.07.2021 for the offences punishable under Sections 147, 148, 447, 294(b), 427 and 506(2) of IPC, before the Sayalkudi Police Station, Ramanathapuram District.

4. Again they tried to put up compound wall. Again, it was prevented. On the earlier occasion also, they faced very same problem, while constructing the compound wall in S.No.87/1. So, he filed a writ petition in WP(MD)No.8360 of 2020. In that case, police protection was also ordered for constructing the compound wall.

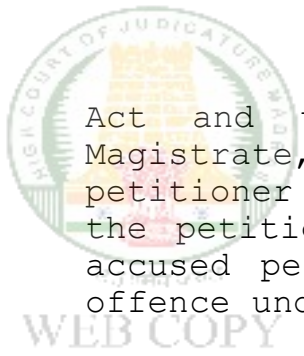
5. Counter affidavit filed by the Revenue Authorities shows that the property belongs to this petitioner absolutely. In the facts and circumstances of the case, the offence under Section 307 IPC is clearly made out. But, the First Information Report has not been registered by including the above said offence. Hence, this petition.

6. Heard both sides.

7. The only grievance of the petitioner is that there is continuous trouble at the hands of the accused persons namely, Sundramahalingam and others. They continuously preventing the petitioner from putting up the compound wall in the property, purchased by the employer Deenathayalapandian. Perusal of records shows that there is a continuous trouble between the parties. In respect of which, cases have been registered and the writ petition has also been filed by the Vendor of the Deena Dayalapandian also.

8. It appears that the accused persons in the above said criminal cases, claimed that there is a pathway in the property, purchased by the employer of the petitioner. Whether there is a pathway or not, cannot be discussed in this petition. The short point, which arises for consideration in this petition is **whether any direction, can be issued to the respondent, to alter the First Information Report, under Section 307 IPC, as requested by the petitioner.** CD file has also been called for and perused.

9. The learned counsel for the petitioner, at the time of argument, would submit that even on the basis of the First Information Report, launched by the petitioner and subsequent events that took place and the interview given by the accused persons to a T.V Channel, attract the offence under Section 307 IPC. The police ought to have filed First Information Report under Section 307 IPC and also under the provisions of Tamilnadu Public Property (Prevention and Loss) Act. Perusal of CD file shows that the alteration report has been preferred to alter the offences under Sections 147, 148, 447, 294(b), 427 and 506(ii) r/w 3(1) of TNPPDL



Act and the same was submitted before the learned Judicial Magistrate, Kadaladi on 26.07.2021. Now, the grievance of the petitioner is redressed, partly. Based upon the complaint, given by the petitioner, it is seen that some damage has been done by the accused persons. The second grievance is only with regard to the offence under Section 307 IPC.

11. On the basis of the records, the fact came to be noticed by this Court that the Investigation has been undertaken in proper manner. So, I am satisfied that the investigation has been undertaken in proper manner and in the proper direction also. There is no attempt, on the part of the Investigating Officer to shield or screen the offenders. In such circumstances, the request that a direction may be issued to the police, may not be proper.

12. Under what circumstances, this Court can interfere in the investigation has been repeatedly reminded by the Hon'ble Supreme Court. More particularly in the case, reported in **State of Haryana Vs Bajanlal 1992 SCC Cr1 426**. The relevant portion of the judgment is extracted hereunder:-

"The core of the above Sections namely 156, 157 and 159 of the Code is that if a police officer has reason to suspect the commission of a cognizable offence, he must either proceed with the investigation or cause an investigation to be proceeded with by his subordinate; that in a case where the police officer sees no sufficient ground for investigation, he can dispense with the investigation altogether; that the field of investigation of any cognizable offence is exclusively within the domain of the investigating agencies over which the Courts cannot have control and have no power to stifle or impinge upon the proceedings in the investigation so long as the investigation proceeds in compliance with the provisions relating to investigation and that it is only in a case wherein a police officer decides not to investigate an offence, the concerned Magistrate can intervene and either direct an investigation or in the alternative, if he thinks fit, he himself can, at once proceed or depute any Magistrate subordinate to him to proceed to hold a preliminary inquiry into or otherwise to dispose of the case in the manner provided in the Code."

13. So, reading of this shows that only in exceptional case, this Court can interfere into the investigation. But, as mentioned earlier, perusal of entire CD file, does not show, any such, improper investigation.

<https://hcservices.ecourts.gov.in/hcservices/> 14. Reading of the First Information Report shows that no



allegation has been made by the petitioner to the effect that attempt either to his life or on the life of the employees in the place of occurrence has been made by the accused persons and so, the non inclusion of the offence under Section 307 IPC, cannot be found fault.

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15. But, however, the learned counsel for the petitioner would submit that the subsequent conduct of the accused persons and their Television Interview will attract the offence under Section 307 IPC.

16. So, in the facts and circumstances of the case, the only direction that can be issued to the Investigating Officer is to record the further statement of the petitioner and also may take into account the alleged Television interview, given by the accused persons.

17. The learned counsel for the petitioner would submit that the entire audio and video, recorded by the accused persons have been handed over to the Investigation Officer. So, the petition is liable to be disposed of with the above said direction.

18. In the result, this Criminal Original Petition is disposed of with the direction to the Investigating Officer to record the further statement of the petitioner within 15 days from the date of receipt of a copy of this order and also may take into account the alleged Television interview, given by the accused persons.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

dss

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,
Office of the Superintendent of Police,
Ramanathapuram District.

2. The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram District.

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



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.(MD)No.10056 of 2021

**Cr1.O.P. (MD) No.10056 of 2021
10.08.2021**

MGJ(25.08.2021) 5P 4C