



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

W.P. (MD) .No.22110 of 2017

N.Vasanthi

... Petitioner

-Vs-

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

2.The Deputy Superintendent of Police,
Office of the Superintendent of Police,
Theni,
Theni District.

3.The Inspector of Police,
Cumbum South Police Station,
Cumbum,
Theni District.

4.The Sub Inspector of Police,
Cumbum South Police Station,
Cumbum,
Theni District

5.S.Kumaravel

6.Gokilarani

... Respondents

(Respondents 5 and 6 are impleaded vide Court order dated 03.01.2018 in WMP(MD)No.18635 of 2017 in WP(MD)No.22110 of 2017)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the third respondent to register the complaint dated 20.11.2017 given by the petitioner to the Second respondent and thereby register the first information report within a reasonable time in accordance with law.

For Petitioner : Mr.J.Barathan

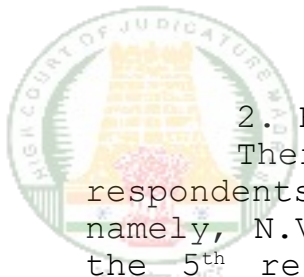
For R1 to R4 : Mr.M.Ganesan

Government Advocate (Crl.Side)

For R5 & R6 : R.Ramasamy

ORDER

This Writ Petition has been filed to direct the third respondent to register the complaint dated 20.11.2017, given by the petitioner to the second respondent.



2. Brief facts:-

There is a property dispute between the petitioner and the respondents 5 and 6. The property belongs to the petitioner's son namely, N.Vijayagiri. He mortgaged the same to meet certain debts to the 5th respondent herein, who demanded ex-orbitant interest for that and also received the interest every month. However, the 5th respondent registered the property in favour of the 6th respondent, who is her wife. After knowing this, the son of the petitioner gave a complaint on 18.01.2017 before the South Police Station, Cumbum. They registered a case and CSR.NO.10 of 2017 was issued on 20.01.2017.

3. Later, Vijayagiri filed a suit against the 5th respondent in O.S.No.9 of 2017 on the file of the Sub Judge, Uthamapalayam. Later, Vijayagiri, filed a petition in Crl.OP(MD)No.15485 of 2017 before this Court for a direction. On 14.11.2017, the 5th and 6th respondents along with other accused persons trespassed into the property by breaking open the lock. This was informed to the South Police Station, Cumbum. After arrival of the police, the accused person went away from the place.

4. On 14.11.2017, a complaint was given, for which, a case was not registered and only CSR was issued. In the mean time, due to the incident, the husband of the petitioner suffered cardiac arrest and died. The accused persons trespassed into the house of the deceased and they occupied the same with the help of the Sub Inspector of Police, South Police Station, Cumbum on 16.11.2017 and the petitioner was directed to attend enquiry on 17.11.2017. The Sub Inspector of Police, South Police Station, Cumbum also locked the house by vacating the petitioner.

5. So, the petitioner gave a complaint to the Sub Inspector of Police, Theni. The respondents 3 and 4 were acting with the aid of the accused persons. In spite of repeated complaint, no action was taken. So, this writ petition is filed seeking writ of mandamus directing the third respondent to register the complaint dated 20.11.2017, and file final report.

6. Heard both sides.

7. Reading of the complaint clearly shows that some sort of dispute arose between the petitioner and the respondents 5 and 6 over a property. In respect of which, as mentioned in the writ petition, a suit in O.S.No.9 of 2017 was also filed before the Sub Judge, Uthamapalayam. Now, according to the petitioner, with the connivance of the Sub Inspector of Police, South Police Station, Cumbum, the accused persons trespassed into her house and occupied. He gave a complaint on 20.11.2017 and no action was taken. Now, it is more or less well settled that the Court cannot be act in such circumstance under Article 226 of Indian Constitution. The only service to the petitioner is to approach the competent



criminal Court for further action. So, with this direction, this Writ Petition is disposed of and liberty is given to the petitioner to work out her remedy as per law. No costs.

Sd/-

Assistant Registrar (CRL)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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,
Theni, Theni District.
- 2.The Deputy Superintendent of Police,
Office of the Superintendent of Police,
Theni, Theni District.
- 3.The Inspector of Police,
Cumbum South Police Station,
Cumbum, Theni District.
- 4.The Sub Inspector of Police,
Cumbum South Police Station,
Cumbum, Theni District

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-10780[F] dated 12/03/2021)

W.P. (MD) .No.22110 of 2017
11.03.2021

TP(CO)
KB(30.03.2021) 3P 6C