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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.12.2021
PRONOUNCED ON : 04.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.18138 of 2021

S.Gandhimathi

... Petitioner

Vs.

1. The Superintendent of Police,
Office of the Superintendent of Police,
Thiruvarur District.
2. The Inspector of Police,
Needamangalam Police Station,
Thiruvarur District.
3. C.Sundarajan
4. M.Baskar
5. S.Parimalam

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the 2nd respondent Police to provide necessary police protection to the petitioner, her family members and also give protection to the properties situated in Thiruvarur District, Needamangalam Taluk, Sithamalli Melpathi Village Survey No.416/3 extent 30 cents on the basis of the complaint dated 06.09.2021 given by the petitioner herein.

For Petitioner : Mr.V.Balamurugan

For R1 & R2 : Mr.E.Raj Thilak,
Additional Public Prosecutor

For R3 to R5 : Mr.X.Selvam Sundar

ORDER

This Criminal Original Petition has been filed to direct the 2nd respondent Police to provide necessary Police protection to



the petitioner, her family members and also give protection to the property situated in Thiruvavarur District, Needamangalam Taluk, Sithamalli Melpathi Village in Survey No.416/3, to the extent of 30 cents on the basis of the complaint, dated 06.09.2021 given by the petitioner.

2.The learned counsel for the petitioner submitted that the petitioner is aged about 72 years, her husband Sivaraj passed away long back. She got three daughters and one son and they are all got married. One of her daughter's husband passed away and she became a widow and residing with her. He further submitted that earlier, the petitioner's brother-in-law/3rd respondent forcibly taken the document of petitioner's property and attempted to sell the same to someone and the 3rd respondent also making obstruction for peaceful possession and enjoyment of the property of petitioner. Thereafter, the petitioner lodged a complaint before the 2nd respondent Police and C.S.R.No.108 of 2021 assigned, but no action taken. Followed it, by another occurrence on 23.04.2021, the petitioner filed another complaint and C.S.R.No.219 of 2021 assigned. Even then, no action taken. Emboldened for the inaction of the respondent police, on 11.08.2021, the petitioner was assaulted and valuable documents from her house taken away by the said Sundarraaj. The petitioner was treated as inpatient and she lodged another complaint and C.S.R.No.348 of 2021 assigned. Since the 2nd respondent Police did not take any action on the three complaints, the petitioner has filed this above petition fearing life threat for herself and her daughter.

3.The learned counsel for the respondents 3 to 5 filed counter, typed set and made his submissions that the petitioner is the wife of the 3rd respondent's elder brother Sivaraj. Earlier, the parents of the 3rd respondent had purchased properties during their lifetime. The 3rd respondent's father died in the year 1992 and his mother died in the year 2003 leaving behind legal heirs viz., the 3rd respondent, Sivaraj, Amsu and Neelavathi. The petitioner's husband Sivaraj died in the year 2006. After the demise of the 3rd respondent's parents, the family properties were enjoyed by all the legal heirs. Thereafter, the petitioner, her son Selvendran, who is an Advocate and her daughters started to make claim over the portion of the property, which they are not entitled. To compromise the issue, panchayat was held by the elders of the village, which was not honoured. He further submitted that the 3rd respondent had conducted the marriage of petitioner's daughter Sivabakiyam and helped the petitioner's family financially by all means. Since the petitioner and her family were adamant and not allowed the other legal heirs to enjoy the property, a partition suit was filed in O.S.No.144 of 2021 by the 3rd respondent before the learned Subordinate Judge,



Mannargudi. To create grounds for defence in the suit, the petitioner is making allegations against the respondents 3 to 5. The allegations that the petitioner was injured by the 3rd respondent and she got treatment as inpatient for more than 12 days, is false. The medical records are very clear that the petitioner was treated as out patient and the injuries are simple in nature. Thus, taking advantage of her gender and age, the petitioner is making false allegations at the instance of her son, who is an Advocate. Hence, he prayed for appropriate direction of this Court.

4.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 filed status report and submitted that on 09.05.2021, the petitioner has lodged a complaint against the respondents 3 to 5 before the 1st respondent Police, who assigned C.S.R.No.219 of 2021. During enquiry, it was found that the dispute between the petitioner and the 3rd respondent is civil nature, they were advised to approach the civil Court for their remedy. Again on 17.08.2021, another complaint was lodged by the petitioner reiterating the earlier complaint, dated 09.05.2021 and C.S.R.No.348 of 2021 assigned. After enquiry, again they were advised to approach the civil Court for their remedy in O.S.No.144 of 2020, which was filed by the 3rd respondent. He further submitted that the dispute is among the family members over sharing of the family property. The petitioner participated in the enquiry conducted by the 2nd respondent Police and agreed to approach the civil Court for her grievance. On the contrary, filing this petition and making allegations against the 2nd respondent Police that the Police did not take any action on her complaints, is not proper. The 2nd respondent Police have acted diligently on the complaints of the petitioner and also considered the fact that the dispute is within the family members. Hence, he prayed for appropriate direction of this Court.

5.This Court considered the rival submissions and perused the materials available on record.

6.It is an admitted fact that the dispute between the petitioner and the respondents 3 to 5 is over sharing of the family property, which is civil dispute. Already, a partition suit in O.S.No.144 of 2020 filed by the 3rd respondent, is pending before the learned Subordinate Court, Mannargudi. The 2nd respondent Police received the complaints of the petitioner and conducted enquiry on every occasion, recorded the statement of the parties and instructed them to approach the civil Court. While being so, this Court finds no laxity on the side of the 2nd respondent Police and the interference of this Court is not necessary.



7. In view of the above, this Court is not inclined to entertain the prayer sought by the learned counsel for the petitioner. Accordingly, this Criminal Original Petition stands dismissed.

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Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Superintendent of Police,
Office of the Superintendent of Police,
Thiruvavarur District.
2. The Inspector of Police,
Needamangalam Police Station,
Thiruvavarur District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Balamurugan, Advocate, S.R.No.199
+1cc to Mr.X.Selvam Sundar, Advocate, S.R.No.425

CrI.O.P.No.18138 of 2021

RSV[co]
NSK 28/01/2022