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Crl.OP.No.31538 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2022

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THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.31538 of 2022

Mylsamy

... Petitioner

Vs.

Inspector of Police,
Land grabbing Special Cell,
Coimbatore 2nd floor,
Room No.205
District Police of Coimbatore - 18.

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the respondent to register an FIR on the complaint given by the petitioner dated 05.12.2022.

For Petitioner : Mr.V.Sairam

For Respondents : Mr.S.Santhosh
Government Advocate(Crl.side)



Crl.OP.No.31538 of 2022

WEB COPY

ORDER

This Criminal Original Petition has been filed to register an FIR for petitioner's complaint dated 05.12.2022 in accordance with law.

2. The learned counsel for the petitioner submitted that the petitioner's property was mortgaged by one Rakiappan and others and thereby obtained loan of Rs.10,00,000/- under the mortgage deed in Doc.No.239 of 2009 from the Agricultural Co-operative Bank, Kinathukadavu. On an earlier occasion, the petitioner had given a complaint in this regard on 23.12.2021. However, enquiry was conducted and the same was closed without proper enquiry. Thereafter, on the basis of the legal opinion, finding that the petitioner is the absolute owner of the property in Survey No.46/A1, 46/B4 in Pottaiyandipurambu Village, police protection was given to the petitioner's life and property. Subsequently, petitioner lodged a complaint dated 05.12.2022 for taking action against the persons who mortgaged his property by creating forged documents. But, till date, no FIR was registered.



Crl.OP.No.31538 of 2022

WEB COPY

2. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that, on receipt of complaint dated 05.12.2022 from the petitioner, the respondent police have conducted enquiry in C.No.215 of 2022 and it is pending for further enquiry.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (crl.side) for the respondent.

4. The Division Bench of this Court in ***G.Prabhakaran v. The Superintendent of Police, Thanjavur***, reported in ***(2018) 2 LW Crl 489*** and the Hon'ble Supreme Court in its latest judgment rendered by a three Judge Bench in ***M.Subramaniam v. S.Janaki***, reported in ***(2020) 5 CTC 464***, after relying upon ***Sakiri Vasu's*** Case, has categorically held that the High Court cannot issue any direction for registration of FIR. High Court can intervene only in extraordinary circumstances and rare cases. However, taking note of the fact that the complaint is now being enquired, the Investigation officer is directed to issue notice to the parties and conduct enquiry as directed by the Hon'ble Apex



Crl.OP.No.31538 of 2022

Court in the case of *Lalita Kumari Vs. Government of Uttar Pradesh and*

others [2014 (2) SCC (1)]. If any cognizable offence is made out, the respondent police is bound to register the FIR otherwise they may close the complaint. Such exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order.

5. With the above directions, this Criminal Original Petition is disposed of.

21.12.2022

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

Sma

To

1. Inspector of Police,
Land grabbing Special Cell,
Coimbatore 2nd floor,
Room No.205
District Police of Coimbatore - 18.

2. The Public Prosecutor,
High Court of Madras, Chennai.

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Crl.OP.No.31538 of 2022

G.CHANDRASEKHARAN,J.

Sma

Crl.O.P.No.31538 of 2022

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