



WEB COPY

W.P (MD) Nos.1204 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2022

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P (MD) Nos.1204 of 2019

Saravanan

... Petitioner

Vs.

1.The Inspector General of Police (South Zone)
Race Course Road,
Madurai.

2.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

3.The Deputy Superintendent of Police,
Srivilliputhur Police Station,
Virudhunagar District.

4.The Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District.

5.Mr.Paul Jesudoss,
The Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District.

6.Mr.Vinayagamoorthy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, directing the 1st and 2nd respondents to take action as against the 5th respondent, further direct the 3rd respondent to grant adequate police protection to the petitioner's life and limb at Door No.136, Jeganantha Thevar Complex, North Car Street, Srivilliputhur Town, Virudhunagar District, based on the petitioner's representation, dated 18.01.2019 within the time limit stipulated by this Court.

For Petitioner	: Mr.M.Jegadeesh Pandian
For R1 to R5	: Mr.A.Thiruvadikumar Additional Public Prosecutor
For R6	: Mr.S.Sadeskumar



ORDER

Regarding the property which is subject matter of suit in O.S.No.108 of 2006 on the file of the Sub Court, Srivilliputhur, the petitioner herein and the 6th respondent Vinayagamoorthy are in the race to grab it leading to registration of the complaints against each other. While, FIR in Cr.No.30 of 2019 and 32 of 2019 on the file of the Srivilliputhur Town Police Station are pending against the 6th respondent, the complaint in Cr.No.31 of 2019 is registered against the petitioner herein for the offences under Sections 147, 323 and 506(i) of IPC and Section 3 of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992. In the said circumstances, the petitioner has filed the present writ petition seeking mandamus to take action against the sixth respondent and also to provide police protection.

2.The learned Additional Public Prosecutor appearing for the respondents 1 to 5 would submit that the petitioner herein involved in the act of causing damage to the public property and attempt to take possession of the property is facing investigation in Cr.No.31 of 2019, whereas, he has lodged two complaints against Vinayagamoorthy, which are also registered in Cr.Nos.30 & 32 of 2019 pending investigation. The present petition has been filed as if no action taken on his complaint and needs police protection which infact not correct.

3. Counter affidavit filed by the fifth respondent, reads as below:

"3. I humbly submit that the prosecution case is that the defacto complainant namely Vinayagamoorthy, Son of Rajagopal preferred a complaint stating that he possessed a property in D.No.137, North Car Street, Srivilliputhur and enjoyed the peaceful possession of the property for the past 25 years and further he was informed by his watchman that one Saravanan, his father and his 4 brothers were damaged the shutter of the property, at that time he was in Chennai and hence after returned to Srivilliputhur he visited the property and found that the accused persons damaged the shutter and walls worth R.1,00,000/- and further the same was questioned by him to the accused persons and for that the accused persons threatened him with dire consequences. Based on the complaint a case was registered in Crime No.31/2019 under Sections 147, 323, 506 (i) IPC r/w 3 of TNPPDL Act and taken up for investigation.

4. I humbly submit that after registering the case the respondent police visited the place of occurrence and prepared rough sketch and observation mahazar in the presence of witnesses Murugesan, Son of Vaiyazhimuthu, 2. Perumal, son of Karuppan, and also enquired witnesses namely 1. Vinayagamoorthy, son of Rajagopal,



2.Neerkathalingam, Son of Poomari, 3. Kanagaraj, son of Kalimuthu, 4.Seenivasan, Son of Karuppasamy, 5. Xavier, Son of Antony and recorded their statement under section 161(3) Cr.P.C.,

5. I humbly submit that on 12.01.2019 the respondent police registered the above said and completed the preliminary investigation, further on investigation and the statement of the witnesses reveals that there is some civil dispute between the defacto complainant and the accused persons and on the date of occurrence the said Saravanan and his father, his brothers damaged the shutter. Further in this case, the respondent have to obtain the damage certificate and also enquire some further witnesses."

4. The counter affidavit of the fifth respondent clearly indicates that there is no inaction on the part of the police and also there is no necessity to provide any police protection to the petitioner herein, who himself is a aggressor and facing investigation in Cr.No.31 of 2019. Hence, this writ petition is dismissed as devoid of merits. No order as to costs.

Sd/-

Assistant Registrar (W)

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Sub Assistant Registrar(CS)

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To

1.The Inspector General of Police (South Zone)
Race Course Road,
Madurai.

2.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

3.The Deputy Superintendent of Police,
Srivilliputhur Police Station,
Virudhunagar District.

4.The Inspector of Police,
Srivilliputhur Town Police Station,
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5.Mr.Paul Jesudoss,
The Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District.

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

W.P (MD) No.1204 of 2019
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RK(10/02/2022) 4P 7C