



Crl.O.P.(MD) No.11034 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 22.06.2022

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.11034 of 2022

J.Ramzan

... Petitioner

Vs

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

2. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Paramakudi,
Ramanathapuram District.

3. T.S.M.Saravanan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the second respondent not to harass the petitioner and his family members under the guise of enquiry in the civil dispute with the third respondent.

For Petitioner : Mr.D.Senthil

For R1 and R2 : Mr.A.Albert James,
Government Advocate (Crl.Side)



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ORDER

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This Criminal Original Petition has been filed for a direction to the second respondent not to harass the petitioner and his family members under the guise of enquiry in the civil dispute with the third respondent.

2. The learned counsel for the petitioner submitted that the second respondent viz., the Deputy Superintendent of Police, Paramakudi, Ramanathapuram District, had issued a summon to the petitioner on 08.06.2022 for vacating the shop, after the period of mortgage, enjoyed the property by the petitioner. In this regard, the petitioner has been harassed by the third respondent, hence this petition.

3. The learned Government Advocate (Crl.Side) appearing for the respondents 1 and 2 submitted that a notice has been issued under section 160 (1) and 91 and also 41 (A) r/w(1) Cr.P.C for the purpose of an enquiry with regard to not vacating the property occupied by the petitioner, after completion of mortgage period. He further submitted that an undertaking was given by the respondent Police that they did not interfere with the civil matter.



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4. On a perusal of the records, it is very clear that the respondent police issued a summon stating that after completion of mortgage period, the petitioner is enjoying the property and therefore, an enquiry was conducted for non vacating the property. The respondent police has no power to vacate a person from the property occupied by him. It is for the Civil Court to decide the aspect whether the petitioner shall continue in occupation of the property or not?. The respondent police has no power to issue summon under section 160 (1) and 91 Cr.P.C, for conducting an enquiry to vacate the petitioner from the property occupied by him.

5. In view of the same, the respondent police is hereby directed not to interfere with the matter pertaining to the property occupied by the petitioner, after completion of mortgage period. When the respondent police is exceeding its limit, liberty is given to the petitioner to take legal action against the respondent police, in the manner known to law.



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

22.06.2022

Internet: Yes./No

Index: Yes/no

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To

1. The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram.
2. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Paramakudi,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

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ORDER IN
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