



Crl.O.P.No.381 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P. No. 381 of 2023

A.Zaheer Hussain

... Petitioner

Vs.

1. The Commissioner of Police,
Office of the Commissioner of Police,
Vepery,
Chennai.

2. The Inspector of Police,
J8 Police Station,
Neelankarai,
Chennai - 600 041.

...Respondents

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C to direct the 2nd respondent to register the case based upon the petitioner's complaint dated 07.12.2022 pending on the file of 2nd respondent and investigate the same in accordance with law.

For Petitioners : Mr.R.Ramesh

For Respondents : Mr.S.Santhosh

Government Advocate (Crl.Side)



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ORDER

The Criminal Original Petition has been filed to direct the 2nd respondent to register the case based upon the petitioner's complaint dated 07.12.2022 pending on the file of 2nd respondent and investigate the same in accordance with law.

2.The learned counsel for the petitioner submitted that the petitioner entered into construction agreement with M/s. Mukandan Construction. The said Mukundan Construction purchased flats to an extent of 5663 sq. ft from the petitioner at the rate of Rs.2855 sq.ft each for the total consideration of Rs.1,32,13,300/-. However, the amount was not paid totally. Still a balance amount of Rs.22,06,55/- is to be paid. When the petitioner demanded the balance amount, the petitioner was threatened with death threat. Hence, complaint dated 07.12.2022 was given to the respondent police. But, till now, no action was taken. Therefore, present petition is filed.

3. The learned Government Advocate (Crl.Side) submitted that, based on the complaint lodged by the petitioner's side, enquiry is pending in C.No.1484 of 2022.



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4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondents.

5. 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 pending and not been enquired, the Investigation officer is directed to issue notice to the parties and conduct enquiry as directed by the Hon'ble Apex 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 today.



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

09.01.2023

Index :Yes/No
Internet:Yes/No
Sma

To

1. The Commissioner of Police,
Office of the Commissioner of Police,
Vepery,
Chennai.
2. The Inspector of Police,
J8 Police Station,
Neelankarai,
Chennai - 600 041.
3. The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.

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