



Crl.O.P.No.7508 of 2022

In the High Court of Judicature at Madras

Dated : 20.7.2023

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Criminal Original Petition No.7508 of 2022

Mr.V.Ganesan

...Petitioner

Vs

State rep.by
Inspector of Police,
Grand Bazaar Police Station,
Jawaharlal Nehru Street,
Puducherry-605001.

...Respondent

PETITION under Section 482 of the Criminal Procedure Code
seeking to direct the respondent to register first information report
based upon the petitioner's complaint dated 12.1.2022 and file a

FIR. For Petitioner : Mr.Thirumalai Rajagopal

For Respondent : Mr.C.V.Ramachandramurthy,
Additional Public Prosecutor (P)

ORDER



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This petition has been filed for a direction to the respondent police to register an FIR based on the complaint given by the petitioner on 12.01.2022.

2. Heard Mr.Thirumalai Rajagopal, learned counsel for the petitioner and Mr.C.V.Ramachandramurthy, learned Additional Public Prosecutor (P) for respondent.

3. The petitioner was doing business in a property measuring an extent of 2025 Sq.ft. According to the petitioner, originally his father was doing the business and on his demise, the petitioner continues to do the business in his capacity as a tenant. On 11.01.2020, the accused persons along with henchmen is said to have trespassed into the property. Immediately, a complaint was lodged on 29.01.2020. Since no action was taken, Crl OP No.4521 of 2020 was filed before this Court and the said petition was disposed of by an order dated 23.07.2020, directing the Tahsildar, Land



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Grabbing Committee, Puducherry, to complete the enquiry and pass orders.

4. The Tahsildar through proceedings dated 05.11.2020 came to the conclusion that there is a possibility of breach of law and order which might cause disturbance to public peace and consequently, advised the Sub-Divisional Magistrate of Puducherry to conduct an enquiry under Section 145 of Cr.PC.

5. Pursuant to the above, the enquiry was conducted by the Sub Divisional Magistrate. The Sub Divisional Magistrate passed an order under Section 145 of Cr.PC on 30.12.2021. It will be relevant to extract the outcome of the proceedings hereunder :-

17. AND WHEREAS, based on information laid by the Station House Officer, Grand Bazaar Police Station, Puducherry vide I.R.No.32 of 2020 u/s 145 Cr.P.C dated 11.11.2020 and report of the Tahsildar, Taluk Office, Puducherry, vide No.662/TOP/PGR/E/2020, dated 05.11.2020, the undersigned has conducted the proceedings by affording opportunity to the



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Counter Petitioners of both the Parties. And also, heard the Petitioner and Ld. Counsel for the Counter Petitioners of both the Parties and carefully gone through all the available records placed before me.

18. AND WHEREAS, during the course of enquiry, the Ld. Counsel for the A-Party stated that the Counter Petitioner of A – Party claims the possession based on an unregistered Will dated 12.01.2007. The Counter Petitioner of B – Party claims the property based on the Will dated 03.01.2007 that was registered on 02.03.2007 i.e. after the death of testator / executor. Based on the Will, the wife of Counter Petitioner of “B” Party purchased the Schedule mentioned Property vide registered sale deed No.55 of 2013 dated 07.01.2013 at SRO, Puducherry. Also, the patta of the said Schedule mentioned Property stands in the name of the B – Party's wife. The Ld.Counsel for the A – Party argued that both the Wills are unregistered and A-Party Will is 12.01.2007 later and prevails over the earlier. And also, POP No.20/2021 was pending to prove the legality of A – Party Will before the Hon'ble Principal District Judge, Puducherry.

19. Further, from the Tahsildar's proceedings, it is learnt that



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the Counter Petitioner of “A” Party was running the business in the name and style of Classic Food Land till 11.01.2020 at Door No.64 & 66 to an extent of 54 Sq. M. In the written submission submitted by the “A” Party it is learnt that if the B-Party denying the title of A – Party, it is his bounden duty to approach the Civil Court for the purpose to evict the A – Party under due process of law.

20. Further, if any of the parties are involving in unlawful activities at the said disputed site, the Station House Officer, Grand Bazaar Police Station, Puducherry shall take appropriate legal action against them according to law. Accordingly the case is dismissed.

6. The grievance of the petitioner is that even subsequent to the above order passed by the learned Sub Divisional Magistrate, the accused person along with henchmen is said to have caused huge damage to the property and the petitioner was virtually prevented from doing the business. Hence, a complaint was given to the respondent police on 12.01.2022. Since the same was not acted upon, the present criminal original petition has been filed before this Court.



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7. In the considered view of this Court, the complaint dated 12.01.2022 read along with the materials placed before this Court, clearly makes out a cognizable offense and there shall be a direction to the respondent police to register an FIR based on the complaint dated 12.01.2022 and proceed further in accordance with law.

8. This Criminal Original petition is disposed of with the above directions.

20.7.2023

Index : Yes (or) No

Neutral Citation : Yes (or) No

Speaking Order : Yes (or) No

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To

1.The Inspector of Police, Grand Bazaar Police Station, Jawaharlal Nehru Street, Puducherry-605001.

2.The Public Prosecutor, High Court, Madras.

N.ANAND VENKATESH,J

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