



Crl.O.P.No.23263 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.23263 of 2022

Senthilkumar

... Petitioner

Vs.

1.The Superintendent of Police,
O/o.The Superintendent of Police,
Coimbatore.

2.The Inspector of Police,
Valaparai Police Station,
Valparai.
[Crime No.65/2021]

... Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to direct the first respondent to transfer/refer the investigation in FIR No.65 of 2021 dated 03.05.2021 on the file of the second respondent to any other fair investigating authority and further direct them to reinvestigate the case with respect to FIR No.65 of 2021 dated 03.05.2021.



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For Petitioner : Mr.C.Gunasekaran

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

The petitioner/defacto complainant in Crime No.65 of 2021 filed this petition seeking transfer of investigation of the case in Crime No.65 of 2021 dated 03.05.2021 from the file of the second respondent to any other fair investigating authority.

2.The contention of the petitioner is that the petitioner is the absolute owner of the property in S.No.12/6A1 A1B situated in Anamalai Kunurugal Village, Kurangumudi, K.G.R. Estate, Valparai to an extent of 3.15 acres. The petitioner purchased the property in the year 2015 from one Madhanagopal. After receiving the sale consideration, the said Madhanagopal executed a sale deed in favour of the petitioner vide Document No.2278/2015 dated 27.05.2015. From the date of purchase, the petitioner is in enjoyment and possession of the property. This being so, on 27.03.2021 the said Madhanagopal and one Balachandar trespassed into the



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petitioner's property and committed theft of green tea leaves to the value of around Rs.60,000/-. The petitioner gave a complaint before the second respondent. Initially, the petitioner's complaint was not entertained, thereafter on the directions of learned Judicial Magistrate, Valparai, a case was registered in Crime No.65/2021 and within thirty minutes, counter complaint was received from Madhanagopal and a case in Crime No.66 of 2021 was registered by the respondent police. Thereafter, the petitioner filed a petition in CrI.O.P.No.3024 of 2022 seeking police protection and the same was allowed. This being so, the respondent police at the instigation of Madhanagopal and Balachandar were attempting to close the case as mistake of fact. Therefore, the petitioner sent a representation dated 13.08.2022 to the first respondent and since, there was no action the present petition is filed.

3.Heard Mr.C.Gunasekaran, learned counsel appearing on behalf of the petitioner.

4.Learned Additional Public Prosecutor submits that the petitioner's



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case is a case in counter. The petitioner lodged a complaint in Crime No.65 of 2021 against Madhanagopal and two others, thereafter a complaint from the said Madhanagopal was received and a case in Crime No.66 of 2021 was registered against the petitioner and one another. He further submits that after investigation, both the cases were closed as mistake of fact and when RCS notice was attempted to be served on the petitioner, he refused to receive the same and hence, a closure report was filed before the learned Judicial Magistrate, Valparai in RCS.No.38 of 2022 on 03.05.2022 and now steps were taken through the learned Judicial Magistrate to serve the summon to the petitioner. He would further submit that the petitioner can very well file a protest petition if he is so aggrieved on the findings of investigation and to seek appropriate orders from the concerned Magistrate. He further submits that the petitioner purchased the property from Madanagopal, there was some misunderstanding between the said Madanagopal and his wife Praveena which lead to several litigation, one such litigation is the above case. Now it is for the petitioner to file a protest petition before the concerned Magistrate and seek his remedy.



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5.Considering the submissions made and on perusal of the materials, it is seen that already both the cases in Crime No.65 of 2021 and Crime No.66 of 2021 were closed as mistake of fact in RCS.No.38 of 2022 and RCS.No.39 of 2022 on 03.05.2022. Therefore, the petitioner has got right to file a protest petition to redress his grievance, if he is so aggrieved.

6.With the above direction, the Criminal Original Petition stands disposed of.

15.06.2023

Index : Yes/No
Speaking Order/Non-Speaking Order
cse

To

1.The Superintendent of Police,
O/o.The Superintendent of Police,
Coimbatore.

2.The Inspector of Police,
Valaparai Police Station,
Valparai.

3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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