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CRL.O.P.No.28935 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.28935 of 2022

P.Venkatasubramaniam

... Petitioner

Versus

1. The Deputy Commissioner of Police,
Kilpauk DCP Office,
Chennai.

2. The Inspector of Police,
Chetpet Police Station,
Chennai.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to direct the second respondent police to register FIR on the basis of the complaint given by the petitioner dated 21.07.2022 and CSR No.228/2022 dated 21.07.2022 and investigate the matter in accordance with law.

For Petitioner : Mr.A.Ragupathy Raj

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

This petition has been filed seeking a direction to the respondent Police to register FIR on the basis of the complaint given by the petitioner dated 21.07.2022 and CSR No.228/2022 dated 21.07.2022 and investigate the matter in accordance with law.

2. The petitioner lodged a complaint on 19.07.2022 to the second respondent with regard to removal of non maintained Cell Phone Tower. Based on the complaint, the CSR No.228/2022 dated 21.07.2022 has been issued. Thereafter, no action has been taken by the second respondent, and hence, the petitioner has approached this Court seeking for a direction.

3. The gist of the complaint is that the petitioner is the resident of No.11, Subarayan Street, Shenoy Nagar, Chennai – 30, approached the Aircel cellular for installing the cell phone tower and agreement also entered between them for the rental period of 9 years, which got expired on 30.09.2015. Thereafter, Chennai Network Infrastructure Limited had called upon to enter into an agreement for the reason stating that the Aircel has been



taken away by the CNIL for a period of 6 years. Hence, agreement was entered. Thereafter, monthly rental of Rs.20,000/- has been given after TDS deduction regularly by CNIL through NEFT transfer till November 2017. Thereafter, they have not paid any rental amount. The petitioner has sent a communication to the CNIL for non payment, further from 2018 he has informed them to maintain the tower as the first floor of the building got damaged. The petitioner has spent a sum of Rs.2,00,000/- for repairing the floor, due to the non maintenance of the tower. He further submits that he has issued notice to remove the tower, which could be fall down at any time, causing damage to the public life and property. The petitioner had sent a final notice to the CNIL along with copy to Police Commissioner and Corporation Commissioner. Though initially Mr.Muralidharan and ArjunSrinivas contacted with the petitioner and his son and undertake to the clear and remove the tower. Thereafter, the petitioner received threats from the said persons. Hence he sent a complaint to the Police to remove the tower and protect the public life and also to collect the rental due to a sum of Rs.18,76,514/- from CNIL (GTL Infrastructure).



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4. The learned Additional Public Prosecutor submits that in this case after receiving the complaint, CSR No.228/2022 registered and steps have been taken to contact the CNIL (GTL Infrastructure Management), but no one in Chennai to contact them. It is found that there is a small office at Bombay to the CNIL (GTL Infrastructure) and thereby nobody could contact them. Due to which, the petitioner's complaint keep at hold. Further submits that Inspector of police, Chetpet Police Station written to Zonal Officer Corporation of Chennai on 20.06.2023 along with Structural stability certificate given by the licence Chartered Engineer stating that the steel structure in the Mobile tower is unstable & unsafe. It is for the Commissioner of Corporation of Chennai to take appropriate action as per Section 258 of the MCM Act. Further awaiting the Commissioner's report.

5. The learned counsel for the petitioner further submits that some of the officials from the Corporation Office, the Corporation Engineer visited the place and they intended to take action to remove the structure.



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6. In view of the above submission, now the corporation officials initiated the action to remove the structure which is unstable & unsafe. Since the construction is damaged position, the action shall be taken within period of three weeks from the date of receipt of a copy of this order.

7. With the above direction, this petition is disposed of.

21.06.2023

Index : Yes/No
Internet : Yes/No
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To

1. The Deputy Commissioner of Police,
Kilpauk DCP Office,
Chennai.
2. The Inspector of Police,
Chetpet Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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