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Crl.O.P.(MD)No.3128 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.04.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

Crl.O.P.(MD)No.3128 of 2023

P.Saravanan

... Petitioner

Vs.

1.The Superintendent of Police,
Theni District,
Theni.

2.The Deputy Superintendent of police,
Aundipatti,
Theni District.

3.The Inspector of Police,
Rajadhani police Station,
Theni District.

4.The Sub Inspector of police,
Rajadhani police Station,
Theni District.

5.The Deputy Superintendent of Police,
CBCID, Aundipatti,
Theni District.

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to withdraw the FIR in Crime No. 28/2023 pending on the file of the 4th respondent and transfer the same to the 5th respondent and further directed the 5th respondent to investigate into the matter and to file final report, within a stipulated time to be fixed by this Court.



For petitioner : Mr.G.Rajan
For Respondents : Mr.B.Nambiselvam
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to withdraw the FIR in Crime No. 28/2023 pending on the file of the 4th respondent and transfer the same to the 5th respondent and further directed the 5th respondent to investigate into the matter and to file final report, within a stipulated time to be fixed by this Court.

2.The facts in brief:

The petitioner and his wife are having agricultural land in various survey numbers situated in Aundipatti Village. One Karupaiah, who is his neighbour wanted to purchase the property from him and his wife. But they refused. The above said Karupaiah along with his wife, sons and relatives and others along with 9 other persons trespassed into the lands of the petitioner on 17.10.2022 at about 5.30 p.m. removing the boundary stones worth about Rs.30,000/- and caused loss to the electricity poles and they also criminally intimidated.

3.A complaint was given on the very same day, that was also not



properly enquired. So he sent a complaint to the Superintendent of Police on 05.11.2022. There was no action. So he preferred a complaint under Section 156(3) Cr.P.C. before the learned Judicial Magistrate, Aundipatti, in Crl.M.P.No.9534 of 2022 on 25.11.2022. That was also ordered.

4.Even after that, there was no proper action. So the petitioner filed Crl.O.P.(MD).No.1758 of 2023 for a direction to comply the above said order passed by the learned Judicial Magistrate. It was submitted before the Court that closure report was filed. On that basis the above said Criminal Original Petition was dismissed. So he filed a private complaint before the learned Judicial Magistrate, Aundipatti, on 17.02.2023. At that time, it was submitted by the fourth respondent that FIR was registered in Crime No.28 of 2023. The above said action itself shows that they are colluding with the accused. So this petition has been filed seeking a direction to transfer the investigation in Crime No.28 of 2023 to the fifth respondent herein.

5.Heard both sides.

6.The grievance of the petitioner is that the inaction on the part of the Investigating Officer at the initial stage will show their biased



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attitude. After several steps that have been taken by him only a case was registered belatedly that too after he filed a private complaint. So according to him, the respondent police is acting in a biased manner, which is evident from their delayed action. So it must be transferred.

7.The entire file has been called for from the police. Originally the complaint that was given by the petitioner was enquired in C.S.R. No. 516 of 2022. So the first contention of the petitioner that no CSR was assigned soon after the above said complaint itself is not correct. That was assigned on 21.11.2022. The date of occurrence stated to on 17.10.2022. In the enquiry, the counter party has also appeared and give their statements. They have stated that they have not made any damage to the stone pillars. During the course of enquiry the counter parties have stated that they have undivided right in the above said property situated in S.No.404 and suppressing their right, this petitioner filed a petition before this Court and tried to evict them by measuring the property. So over the above said, they also filed suit in O.S.No.95 of 2022. Finding that a false complaint has been given by this petitioner, report was submitted to the Court. But, later a case in Crime No.28 of 2023 was registered on the basis of the complaint given on 07.02.2023, by this petitioner. So it is seen that after closing the above said complaint the



FIR has been registered.

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8.Now the learned Additional Public Prosecutor would submit that only based upon the directions issued by the Magistrate, the above said FIR was registered. No doubt by mistake on the part of the respondent herein in filing the closure report. Thereafter, filing the FIR. But from this alone it cannot be said that the respondent who is the investigating officer has taken a biased stand. It appears that the petitioner suppressing some material facts obtained order from this Court to measure the property and after that only it appears that trouble has arisen between them.

9.Therefore, let the investigation be completed within a period of two months from the date of receipt of a copy of this order. With the above said directions, this criminal original petition stands **dismissed**.

24.04.2023

Index : Yes/No
Internet : Yes/No
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Theni District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN. J.

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