



CrI.O.P.(MD)No.2613 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.02.2024

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CrI.O.P.(MD)No.2613 of 2024

M.Sethu Lakshmi

... Petitioner

Vs.

1. The Superintendent of Police,
O/o. Superintendent of Police,
Thoothukudi District.

2. The Sub-Inspector of Police,
DCB Police Station,
Thoothukudi District.

3. L.Rani

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to direct the second Respondent not to harass the Petitioner except under due process of law.

For Petitioner : Mr.K.Jerish Neeraj

For R1 & R2 : Mr.M.Veeranthiran
Government Advocate



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ORDER

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The learned Counsel for the Petitioner submitted that the Petitioner had filed this petition seeking direction against the Respondent Police not to harass the Petitioner.

2.The learned Government Advocate (Criminal side) on instructions from the Respondent Police submitted that the Petitioner herein had borrowed a loan amount from the third Respondent by mortgaging her property with the third Respondent for Rs.25,00,000/- (Rupees Twenty Five Lakh only). Subsequently, the Petitioner herein had approached the Thoothukudi Central Police, seeking for a Non-Traceable Certificate. Accordingly, after due enquiry, the Thoothukudi Central Police had issued Non-Traceable Certificate. Subsequently, after getting Non-Traceable Certificate, the Petitioner herein by Document No.5229 of 2023, executed Power of Attorney to one Pooranammal on 29.09.2023. Therefore, the third Respondent who had extended the loan and obtained original deed from the Petitioner herein, had approached the second Respondent by filing a complaint. Based on the complaint of the third Respondent, the second Respondent had issued summons to the Petitioner as well as the third Respondent.



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3.As per the submissions of the learned Government Advocate (Criminal side), current paper in C.Nos.P4/03709/351/2024 dated 30.01.2024 and P4/28/DCB/TUT/2024 dated 31.01.2024, are pending with the second Respondent. The Petitioner and the third Respondent appeared for the first hearing on 06.02.2024. Subsequently, on the second hearing date, the Petitioner did not appear before the Court, instead she had filed this petition. The Petitioner having obtained loan from the third Respondent and having executed mortgage deed, subsequently, after obtaining Non-Traceable Certificate from the Thoothukudi Central Police, the Petitioner executed Power of Attorney deed to one Pooranammal, is found to have indulged in some offences for which the second Respondent is within his discretion to hold enquiry as per the reported ruling of the Hon'ble Supreme Court in the case of *Lalitha Kumari Vs. State of Uttar Pradesh* reported in *(2014) 2 SSC 1* and *Arnesh Kumar Vs. State of Bihar and another [2014 (8) SCC 273]*. Therefore, the conduct of the second Respondent is found to be proper having issued summons when there is a complaint pending before the second Respondent. The Petitioner as a Citizen of this Country is duty bound to appear before the second Respondent. The Petitioner having executed mortgage deed and obtained loan from the third Respondent, subsequently, cleverly got a Non-Traceable Certificate from a different Police Station and executing Power of Attorney is found to attract the



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provision of crime based on the complaint of the third Respondent.

Therefore, it is not the fit case for issuing direction not to harass the Petitioner.

4.The second Respondent shall conduct enquiry in the light of the reported ruling of the Hon'ble Supreme Court in the case of ***Lalitha Kumari Vs. State of Uttar Pradesh*** reported in ***(2014) 2 SSC 1*** and ***Arnesh Kumar Vs. State of Bihar and another [2014 (8) SCC 273]***. If any cognizable offences are made out, the second Respondent shall register a case and proceed with the investigation.

5.With the above said direction, this Criminal Original Petition is dismissed.

20.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
jbr



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To

1. The Superintendent of Police,
O/o. Superintendent of Police,
Thoothukudi District.
2. The Sub-Inspector of Police,
DCB Police Station,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.,

jbr

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