



CRL OP(MD).No.4565 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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(Criminal Jurisdiction)

Dated : 16.05.2025

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD)No.4565 of 2024

M.Rajesh Kumar

... Petitioner

Versus

**1.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.**

**2.The Additional Superintendent of Police,
Crimes against women and children (in-charge) (CWC),
Head Quarters, Tirunelveli.**

**3.The Inspector of Police,
District Crime Branch,
Campus of Superintendent of Police,
Palayamkottai,
Tirunelveli District.**

4.S.Palavesamuthu

**5.The Inspector General of Police,
South Zone,
Madurai.**

...Respondents

**[R5 is suo motu impleaded vide order
dated 26.06.2024]**



CRL OP(MD).No.4565 of 2023

Prayer: Petition filed under 482 CrPC to direct the 2nd respondent not to interfere in the civil dispute between the petitioner and the 4th respondent.

For Petitioner : Mr.AN.Ramanathan

For Respondent : Mr.T.Senthil Kumar

Nos.1 to 3

Additional Public Prosecutor,

For Respondent : Mr.Karthikeya Venkatachalapathy

No.4

ORDER

The petitioner has approached this Court that the 2nd respondent / Additional Superintendent of Police, who is in charge of crime against women and children, Tirunelveli is harassing him under the guise of enquiry on the complaint of 4th respondent in respect of a civil dispute between them.

2.According to the petitioner, he is having civil dispute with the 4th respondent and there are civil suits pending between them. However, the 4th respondent by influencing the police officer is harassing the petitioner. The petitioner has filed this petition based on the summon of the Additional Superintendent of Police, CWC dated 21.02.2023 issued under Section 91 / 160 CrPC.

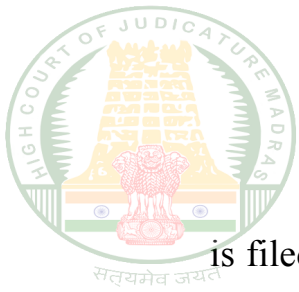


CRL OP(MD).No.4565 of 2023

WEB COPY

3.The summon was issued by the Additional Superintendent of Police based on the complaint of one S.Palavesamuthu, s/o.Selvaraj Nadar / the 4th respondent to the Director General of Police. By that summon the petitioner was directed to appear for enquiry on 24.02.2023 at about 10.30 am. This Criminal Original Petition has been filed on 07.03.2023 contending that it is a pure civil dispute between the petitioner and the 4th respondent, which has been given criminal colour. On the very same set of allegations, the 4th respondent has already filed a complaint in the year 2011, which was also registered in Crime No.49 of 2011 and closed as mistake of fact. The criminal original petition filed in respect of Crime No.49 of 2011 was also closed recording the filing of closure report. However on the very same set of allegations, once again a complaint was lodged before the Deputy Inspector General of Police and the petitioner has been again harassed under the guise of enquiry.

4.This Court by its order dated 05.07.2023 recording this submission made on behalf of the learned Counsel for the petitioner directed the learned Government Advocate to get instructions as to the allegations made by the petitioner as stated supra. The counter affidavit



CRL OP(MD).No.4565 of 2023

is filed before this Court on 21.07.2023 running to 14 pages in the name of Meeral Banu, w/o Mohamed Meerasha, Inspector Police, ACTU, District Crime Branch, Tirunelveli District that the 4th respondent is the real owner of the property and he is the legal heir of one Mayamuthu. However, the petitioner by creating forged document is in occupation of the property. With regard to the earlier complaint of the 4th respondent, the Inspector of Police has stated that it was registered in Crime No.49 of 2011, final report was not filed on 16.12.2012 and the final report is not available in the CD file.

5.By recording this counter affidavit on 02.08.2023 this Court has passed an order as under:

“2.The respondent No.3 has filed a counter affidavit, wherein the Inspector of Police, District Crime Branch, Tirunelveli has made certain comments in the sworn affidavit stating that the earlier report filed before this Court by the respondent police in respect of Crime No.49 of 2011 is false and further at paragraph No.33, he has mentioned that the registered Will document bearing No.05/1928 written by one Lakshmi Nadathi is a forged one without any basis.



CRL OP(MD).No.4565 of 2023

WEB COPY

3.The learned Government Advocate (Crl Side) requested time to get instructions from the respondent police.

4.List on 17.08.2023 for further hearing. Until then, the respondents are directed not to call the petitioner for enquiry without following due process of law.”

6. Thereafter the case was listed on 17.08.2023. It was adjourned to 28.08.2023 at the request of the learned Government Advocate. It was listed on 12.10.2023 and adjourned to 21.11.2023. On 21.11.2023 it was adjourned to 14.12.2023. On 14.12.2023 it was adjourned to 11.01.2024. It was listed on 04.04.2024 on that day at the request of the learned Government Advocate it was adjourned to 22.04.2024.

7. This Court perused the counter affidavit filed on behalf of the 3rd respondent. The counter affidavit, which runs to 14 pages, is like a written statement filed by the 4th respondent. The Counter affidavit must have been drafted by a legal brain. This Court verified with the Inspector of Police, who has filed this counter affidavit before this Court, as to whether she has prepared and filed this counter affidavit, she has denied



CRL OP(MD).No.4565 of 2023

the same and stated that she has been compelled to file this counter affidavit.

8.The 4th respondent has not filed any counter affidavit.

9.This Court considered the rival submissions and perused the materials placed on record.

10.The main issue involved is with regard to the right of property of one Muthu Paradesi Nadar. It appears that Muthu Paradesi Nadar had several properties in North Valliyur village. He settled his properties in favour of his son Mayamuthu Nadar. This settlement document is a registered one, registered as document No.1854 of 1908 on 20.07.1908. The case of the petitioner is that the said Mayamuthu Nadar along with his wife is said to have executed a Will in the year 1928 in favour of their daughter Vellammal and from Vellammal her husband Katthamuthu Nadar inherited the property. Subsequently the petitioner's father one Muthukrishnan has inherited the property. After him the petitioner is maintaining the property.



CRL OP(MD).No.4565 of 2023

11.The case of the 4th respondent is that Lakshmi Nadathi was not the wife of Mayamuthu Nadar and his wife was one Muthammal Nadathi and this Will document No.5 of 1928 is a forged one.

12.The petitioner claims that the petitioner's father has established samadhi of Muthu Paradesi Nadar and a temple in the property and all the revenue records stand in his name. The HR and CE Department has also appointed a fit person for the temple established by his father in the year 1989. Therefore, the petitioner's father has filed a suit before the District Munisif Court, Valliyoor in OS.No.104 of 1996 and the suit was decreed in his favour and the appeal preferred by the HR and CE Department before the II Additional District Court, Tirunelveli in AS.No. 30 of 1999 was also dismissed. The HR and CE Department has preferred the second appeal before this Court and the same is pending. It is also the case of the petitioner that one Ponpandi and Ramachandran, relatives of the 4th respondent has filed a suit in OS.No.330 of 2010 against the petitioners' family members with respect of one of the properties and the same is pending. On coming to know that the suit is filed, an application has been filed to implead themselves and however



CRL OP(MD).No.4565 of 2023

after their impleadment, the said Ponpandi and the Ramachandran have not prosecuted the suit and left the suit for dismissal on 11.04.2018.

13.The 4th respondent has also made an attempt by lodging a complaint in the year 2011 that he is the original legal heir of the Mayamuthu Nadar, FIR was registered in Crime No.49 of 2011 on the file of the District Crime Branch, Tirunelveli and it was closed as mistake of fact. Recording this fact, the CrIOP(MD)No.11782 of 2022, filed by the 4th respondent was closed. On the very same set of allegations in Crime No.49 of 2011, the present complaint has been lodged before the Deputy Inspector General of Police, forwarded to the 2nd respondent and this petitioner has been harassed.

14.The fact remains that the earlier complaint of the 4th respondent was dealt with by the 3rd respondent and closed that no offence was made out. The 4th respondent has filed CrIOP(MD)No.11782 of 2022 seeking a direction from this Court to the Inspector of Police, District Crime Branch to complete the investigation and to file a final report in Crime No.49 of 2011. For this case registered in the year 2011, the 4th



CRL OP(MD).No.4565 of 2023

respondent filed a criminal original petition in the year 2022 and it has been disposed of on 01.07.2022 as under:

“3.Today, when the matter was taken up for hearing, the learned Government Advocate (Crl Side) appearing for the respondent police would submit that the investigation in this case has already been completed. Since no offence was made out, after investigation, further action dropped and the closure report was filed before the Judicial Magistrate No.1, Tirunelveli on 16.01.2022.

4.Recording the same, this Criminal Original Petition is closed with liberty to the petitioner to take appropriate action upon the closure report”

15.It appears that after a period of two years, the present complaint has been lodged before the Deputy Inspector General of Police. The Deputy Inspector General of Police appears to have forwarded it to the 2nd respondent / the Additional Superintendent of Police. The Additional Superintendent of Police has issued notice under Section 91/160 CrPC. Issuance of summon under Section 91/160 CrPC arises only after the case is registered.



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CRL OP(MD).No.4565 of 2023

16.Sections 91 and 160 CrPC read as follows:

“91. Summons to produce document or other thing.

(1)Whenever any Court or any officer-in-charge of a police station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2)Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3)Nothing in this section shall be deemed -

(a)to affect sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), or the Banker's Books Evidence Act, 1891(13 of 1891); or

(b)to apply to a letter, postcard, telegram or other



WEB COPY



CRL OP(MD).No.4565 of 2023

document or any parcel or thing in the custody of the postal or telegram authority.”

“160. Police officer's power to require attendance of witnesses.

(1)Any police officer making an investigation under this Chapter may, by order in writing require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required :Provided that no male person [under the age of fifteen years or above the age of sixty-five years or a woman or a mentally or physically disabled person] [Substituted for the words "under the age of fifteen years or woman" by Criminal Law (Amendment) Act, 2013] shall be required to attend at any place other than the place in which such male person or woman resides.

(2)The State Government may, by rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub-section (1) at any place other than his residence.”



CRL OP(MD).No.4565 of 2023

WEB COPY

17. Strangely the complaint was received by the Deputy Inspector General of Police, forwarded to the Additional Superintendent of Police.

The fact remains that the complaint dated 24.02.2023 has been kept pending at the stage of petition enquiry for the past two years.

The complaint is of the year 2023. In the existing code of Criminal Procedure at the relevant point of time there was no provision for conducting petition enquiry. However, the decision of the Full Bench of Hon'ble Supreme Court in ***Lalitha Kumari Vs State of Uttar Pradesh and others reported in (2013) 14 SCR 801***, enables the Police to treat certain cases as petition enquiry such as matrimonial dispute, money dispute and civil dispute. The Hon'ble Supreme Court while permitting the police officer to conduct petition enquiry, has also fixed time limit to conclude this preliminary enquiry within a period of six weeks. The fact remains that in this case the complaint dated 24.02.2023 has been treated as petition enquiry for more than two years.

18. PSO.No.562 of Police Standing Order prohibits the police from conducting any investigation of civil in nature, or in which the complaint is obviously endeavouring to set the criminal law in motion to support a



CRL OP(MD).No.4565 of 2023

civil right. The Director General of Police following the guidelines of the Hon'ble Supreme Court has issued circular restraining the police from entertaining the complaint of civil in nature in Circular No. 126303/Cr.I(1)/2008, dated 04.12.2008. This circular specifically prohibits the police officer that they should not entertain any enquiry and cause any investigation in cases of civil nature. A similar circular was also issued by the Director General of Police in Circular No. 18/ADGP/L&O/Camp/2024, dated 09.01.2024.

19.The 4th respondent has lodged a complaint on 24.02.2023. It appears that he has also lodged a similar complaint in the year 2011, not prosecuted the complaint for 11 long years, approached this Court in CrIOP(MD)No.11782 of 2022 in the year 2022 and that was closed by recording the submission of the learned Government Advocate appeared on behalf of the police that the complaint of the 4th respondent did not disclose any offence. However on the very same set of allegations, another complaint was entertained by the Director General of Police and it has been mechanically forwarded without ascertaining the veracity of the complaint and the Additional Superintendent of Police has also



CRL OP(MD).No.4565 of 2023

issued summon under Section 91 / 160 CrPC without even registering the case and the same has been kept pending for the two years despite the earlier orders of this Court.

20.This Court is of the view of that the then Deputy Inspector General of Police along with the Additional Superintendent of Police has entertained a civil matter and harassed the petitioner. The counter affidavit filed before this Court by the 3rd respondent reveals that the respondent Police have acted as an agent of the 4th respondent in interfering with the civil dispute between him and the petitioner.

21.Considering the manner in which the complaint was entertained, the petitioner was harassed, he was driven to file an application to protect his interest, this Court is inclined to allow this petition with costs. However, this Court refers this matter to the Director General of Police to look into the issue, order for an enquiry and take appropriate action as against the Deputy Inspector General of Police, who entertained the petition and the Additional Superintendent of Police, who issued summons for enquiry, if they have acted to favour the 4th respondent in the civil dispute.



CRL OP(MD).No.4565 of 2023

22.This criminal original petition is allowed with the above
directions.

16.05.2025

DSK

To

- 1.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
- 2.The Additional Superintendent of Police,
Crimes against women and children (in-charge) (CWC),
Head Quarters, Tirunelveli.
- 3.The Inspector of Police,
District Crime Branch,
Campus of Superintendent of Police,
Palayamkottai,
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- 4.The Inspector General of Police,
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- 5.The Director General of Police, Chennai.



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CRL OP(MD).No.4565 of 2023

B.PUGALENDHI,J

DSK

CRL OP(MD)No.4565 of 2023

Date : 16.05.2025