

(2014) 11 MAD CK 0111
In the Madras High Court
Case No : Crl. O.P. (MD). No. 17302 of 2014

A. Sikkandar

APPELLANT

Vs

Commissioner of Police

RESPONDENT

Date of Decision : 12-11-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2015) 1 MLJ(Cri) 5

Hon'ble Judges : P. Devadass, J

Bench : Single Bench

Advocate : M.M.E. Philips, Advocates for the Appellant; P. Kandasamy, Govt. Advocate, Advocates for the Respondent

Judgement

P. Devadass, J.—The petitioners, namely, A. Sikkandar and Abubukkar, came forward with this petition under Section 482 Cr.P.C. that they shall not be harassed by the respondent police nor they shall spoil the sanctity of the holy place and defile it. The petitioners states that they are pious and deeply religious and are true Musalmans and they shall not be harassed by the police.

2. The learned Government Advocate (Criminal side) filed a status report. He had submitted that there is opposite group. There is civil dispute between both sides. Each side complains against the other.

3. The learned Government Advocate also submitted that in Crl. O.P.(MD) No. 12017 of 2014 on 01.07.2014, this Court has directed the respondent police to conduct enquiry in the light of the recent judgment of the Hon'ble Apex Court in Lalita Kumari Vs. Govt. of U.P. and Others, . In the circumstances, to conduct enquiry police has sent summons to Sikkanthar and his brother, but they have not responded. When the enquiry was conducted, it turn out that already there is a civil dispute and there exists enmity between the parties and as it does not disclosed any cognizable offence it was closed.

4. In reply, the learned counsel for the petitioners submitted that what is stated

by the learned Government Advocate relates to a different matter/case and the suit in O.S. No. 725 of 2013 filed by the third party also against the petitioner was tried and dismissed recently by the learned District Munsif, Madurai Taluk.

5. It is seen that in view of the property dispute and other dispute there are enemies to the petitioners. There is apprehension for him. Petitioners and their family have to be secured/protected. It is the duty of the law enforcing authority to protect them.

6. As regards issues relating to property including place of worship, it must be adjudicated by a Competent Court. Criminal Court cannot do that. Police should not be given the role of a Civil Judge to decide who is the owner of the property. A Judge cannot be a police and vice versa. That is why it is stated that in civil matters police should not interfere.

7. It is pertinent here to note the submission of the learned Government Advocate that the petitioners are embroiled in number of F.I.Rs. It has been replied to by the learned counsel for the petitioners that they will face those cases in accordance with law.

8. In view of the foregoing, petitioners and their family members shall not be harassed by the police. However, it is emphasised that right to property and the dispute thereon should be adjudicated by a competent Court in accordance with law. With these observations, this Criminal Original Petition is disposed of.