
(1992) 08 MAD CK 0007

In the Madras High Court

Case No : Criminal Original Petition No. 8582 of 1992

D. Muthukrishnan

APPELLANT

Vs

The Superintendent of Police, Chengai-MGR Dist. and others

RESPONDENT

Date of Decision : 17-08-1992

Acts Referred:

Citation : (1993) LW(Cri) 357

Hon'ble Judges : Swamidurai, J

Bench : Single Bench

Advocate : S. Krishnaswamy, for the Appellant; P. Govindarajan, Government Advocate, for Respondents 1 and 2 and Mr. V. Sairam, for 3rd Respondent, for the Respondent

Final Decision : Allowed

Judgement

Swamidurai, J.—The Petitioner submits that he seeks for police protection in the following circumstances. Admittedly, there is an order of

interim injunction passed by the learned District Munsif, Poonamallee in I.A. No. 2842/91 in O.S. No. 2125/91 restraining Thiruvannamalai

Kundrakudi Adheenam represented by its Power of Attorney S. Aranganathan from interfering with the Petitioner's possession and enjoyment of

the suit property. The Petitioners in I.A. No. 2842/91 are the Plaintiffs 1 to 5. The Petitioner in Crl.O.P. No. 8582/91 is the third Petitioner in I.A.

No. 2842/91 Learned District Munsif, Poonamallee granted an interim injunction on 11.11.1991 and the order of interim injunction has been

subsequently extended by the trial court. Then the Petitioner in I.A. No. 2842/91 in O.S. No. 2125/91 moved this Court by filing Crl.O.P. No.

13874 of 1991 against the Inspector of Police, Adambakkam and E. Aranganathan, the second Respondent subsequently impleaded by order of

this Court made in Crl.M.P. No. 273/92 on 17.2.92 for a direction to the police to the first Respondent to provide the Petitioner therein and the

members of his family for necessary police assistance pursuant to his L.P. No. 135/91. That application came up for final hearing before the

learned Judge (Pratap Singh, J.) who passed an order on 6.4.1992 dismissing that application. Learned Judge in the course of his order observed

as follows:

It is open to the first Respondent to afford that much protection as is needed in the circumstances of the case on the complaint already given by the

Petitioner.

Learned Judge observed again in the course of his order as hereunder:

Regarding the claim for police protection for the person of the Petitioner and his family members, the first Respondent shall offer the same if need

be.

The first Respondent in the said petition is the Inspector of Police, Adambakkam Police Station. The present Petitioner filed Crl.O.P. No. 6805/92

in this Court for a direction to the Respondent, namely the Superintendent of Police, Chengalpattu M.G.R. District and the Inspector of Police,

Adambakkam to give necessary protection to the Petitioner to implement the order of interim injunction in I.A. No. 2842/91 in O.S. No. 2125/91

against the obstructors as per the complaint given by the Petitioner, Learned Judge (Arumugnam, J.) passed the following order:

Having heard the learned Counsel for the applicant herein that in the context of the refusal of ample police protection by the concerned Police

inspite of the interim injunction granted by the learned District Munsif of Poonamallee in the application and the suit referred to in this application, I

hereby direct the applicant to move the District Munsif's Court, Poonamallee immediately and get an order for Police Protection from the

concerned Police on the strength of the order of interim injunction granted by the learned District Munsif in the matter in question and the learned

District Munsif, Poonamallee, is hereby directed to consider the matter on merits.

Subsequent to this petition, it appears, the Petitioner Plaintiff in the suit filed I.A. No. 2842/91 before the trial court seeking police aid and the

application is pending disposal before the trial Court.

2. The present petition is resisted by the third Respondent, now impleaded by this Court in this petition on the ground that the order in the Interim

Application is not final and therefore, police protection should not be granted. The second ground is that under the guise of police protection it is

now sought for by the Petitioner to evict the contesting third Respondent from the suit premises. The order of interim injunction is to restrain the

third Respondent herein from interfering with the Petitioner possession and enjoyment of the suit property. That order has to be obeyed by the

third Respondent till that order is made absolute or any other order is passed subsequently by the trial court.

3. Learned Counsel for the third Respondent cited a judgment before me reported in G. Krishnan v. Superintendent of Police, Madurai and three

others (1992 L.W. (Crl.) 355). There, the learned Judge (Bakthavatsalam, J.) passed an order directing the police to render police help in order to

enforce the order of injunction granted in I.A. No. 246/90 in O.S. No. 393/90 on the file of the District Munsif, Madurai. Learned Counsel for the

third Respondent wanted to make a distinction between the judgment rendered by the learned Judge from the facts of the present case. Learned

Judge passed the order directing the police to render police help after the order of interim injunction was made absolute. It appears from his

argument that the interim order before it was made absolute should not be obeyed or the police should not be directed or enter assistance pursuant

to interim order. I am unable to find any difference between the interim order or the order made absolute by a civil court. The Inspector of Police,

Adambakkam has failed to obey the order of the learned Judge, Pratap Singh, J. made in Crl.O.P. No. 13874/91 dated 6.4.1992. It is not an

order dismissing simpliciter. Learned Judge has observed that it is open to the first Respondent-Inspector of Police, to afford that much of

protection as is needed in the circumstances of the case on the complaint already given by the Petitioner. This should not be considered that the

learned Judge has simply dismissed that application without making any observation. It is common in the course of passing an order in favour of the

Petitioner or dismissing the application against the Petitioner, to make an observation and even that observation has to be obeyed since they are in

the nature of direction. Learned Judge gave an observation as stated above to the police. That does not mean that the police should refuse to

entertain the application and to act on the complaint. That is not the intention of the order of the learned Judge.

4. In the circumstances, the Superintendent of Police, Chengalpattu-MGR District and the Inspector of Police, Adambakkam are directed to

render police help to see that the order of interim injunction made in I.A. No. 2842/90 in O.S. No. 2125/91 on the file of the learned District

Munsif, Poonamallee is obeyed till there is any such order varying the same. It is unfortunate the police did not render any help ever since the order

of interim injunction was made. The attitude of the police in not rendering any help is found from the various applications filed by the aggrieved

Petitioner, in spite of the order of the interim injunction given by the civil court. The learned District Munsif has also failed to order police

protection. Otherwise there is no need at all for the Petitioner to file the present application. Public will lose confidence in judiciary if such

applications are not disposed of urgently. Learned District Munsif, Poonamallee shall not keep such applications in future without passing any

orders. In the circumstances, the petition is allowed.