
(2014) 10 MAD CK 0162
In the Madras High Court
Case No : W.P(MD) No. 17616 of 2014

Raju

APPELLANT

Vs

The Director General of Police

RESPONDENT

Date of Decision : 31-10-2014

Acts Referred:

Constitution of India, 1950 — Article 20(3)
Criminal Procedure Code, 1973 (CrPC) — Section 91

Citation : (2014) 10 MAD CK 0162

Hon'ble Judges : M. Venugopal, J

Bench : Single Bench

Judgement

M. Venugopal, J.—Heard both sides.

2. The Petitioner has filed the present Writ Petition praying for passing of an order in directing the respondents 1 to 3 to consider his representation, dated 7.10.2014 for taking appropriate action against the named fourth respondent/ Inspector of Police, Thuraiyur Police Station, Trichy District.

3. According to the Petitioner, he purchased the land in Thenpuranadu Village in S.No. 533/2 and 535/1 and he cultivated tapioca plants(Maravalli) and when he was doing agricultural work on 03.10.2014, at about 12.00 noon, some police officials attached to the fourth respondent Police Station came to his land and directed him to appear before the fourth respondent Police Station. Immediately, on 3.10.2014, he rushed to the fourth respondent Police Station and in fact, he was kept in the Police Station without any enquiry and in reality, the fourth respondent had not conducted any enquiry on 10.2014 and directed him to appear on 6.10.2014 at about 12.45 p.m. He went to the fourth respondent Police Station and appeared before him.

4. The grievance of the Petitioner is that the Fourth Respondent had used filthy language against him and criticised his caste name and threatened him that he will cut his legs etc, if he enters into the lands purchased by him. Furthermore, the Fourth Respondent by name threatened him that false cases would be foisted

against him and his family members and in this regard he informed the Uppiliapuram Sub-Inspector of Police also.

5. The stand of the Petitioner is that he had purchased the lands legally from one K.Mani for a valuable sale consideration of Rs.3,38,000/- and the sale deed was also executed to that effect. The said sale deed was registered on 22.09.2014 and the fourth respondent had not considered the said fact and deliberately threatened him to vacate from the said land on inducement of the bad elements best known to him. As such, he was forced to send a representation to R1 to R3 on 07.10.2014 to take appropriate action against the fourth respondent and to give him protection to his life and limb and his family members and his property. The said representation was not at all considered by the respondents 1 to 3.

6. It is to be borne in mind that Section 91 of Cr.P.C speaks of summons to produce document or other thing and the ingredients of Section 91 Cr.P.C are enabling in nature aimed at arming the Court or any Officer in charge of Police Station concerned to enforce and to ensure the production of any document or other things, necessary or desirable for the purposes of any investigation, enquiry, trial or other proceedings under the Code. By issuing summons or written order to the person in whose possession or power such document or thing is believed to be there is to require him to attend and produce the said material at the time and place stated in the summons or order. sine-qua-non of an order under Section 91 of Cr.P.C is the consideration by the Court that the production of the documents concerned is desirable and necessary for the purposes of trial in a given case. It cannot be gainsaid that the summons issued without considering its necessity is illegal in the considered opinion of this Court. Furthermore, the production of a document in compliance of notice issued by the authority concerned is only an act.

7. Added further, the ingredients of Section 91 in the considered opinion of this Court do not attract Article 20(3) of the Constitution of India. It is to be remembered that the person concerned to produce documents or thing is not a witness and cannot be cross-examined. Also that, it is the duty of the Court to pluck out the "arrow of injustice" when an individual comes to Court for redressal of his grievance.

8. In view of the fact that the Petitioner has come out with a plea in the present Writ Petition that he has purchased the land in question legally from one K.Mani for a valuable sale consideration by virtue of registered sale deed, dated 22.09.2014, this Court directs the Respondents 1 to 3 in the interest of justice, fair, equity good conscience and even as a matter of fair play to consider the representation of Petitioner, dated 07. 10.2014(since the Petitioner has prayed for taking action against the Fourth Respondent) in a fair, just and equitable manner within a period of eight weeks from the date of receipt of a copy of this order, of course after providing necessary opportunities to the Petitioner and others concerned, by adhering to the principles of natural justice. Also that, this Court directs the Fourth Respondent to issue notice under Section 91 of Cr.P.C to

the Petitioner, in case, the his presence is required at the Thuraiyur Police Station, Trichy District in connection with the complaint lodged by any affected person and if at any point of time during the enquiry, if the fourth respondent comes to an inevitable and irresistible conclusion that the subject-matter in issue is a civil dispute/civil transaction, then the respective parties may be advised to approach the competent Civil Court and to seek redressal of their grievance in the manner known to law and in accordance with law. That apart, the Fourth Respondent also is to bear in mind the Police Standing Orders/Circular and to act in true letter and spirit in a scrupulous fashion.

9. With the aforesaid directions, the Writ Petition stands disposed of. No costs.