

**IN THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL
MAGISTRATE, VILATHIKULAM**

PRESENT : Thiru. M.P.RAMKISHORE., B.E., B.L.,(Hon's)

DISTRICT MUNSIF, VILATHIKULAM

Tuesday the 1st day of November 2022

Crl.M.P.No. 1554/2022

CNR.No. TNTTOA – 003700 -2022

K.Jothimani,
S/o. Kovilpillai.
49/4-1, Kamarajar Nagar,
Vilathikulam.

---Petitioner

/Vs/

1. Malliga,
W/o. Madasamy.
1/38, Chidambar Nagar,
Vilathikulam.

2. Madasamy,
S/o. Varadharaj.
1/38, Chidambar Nagar,
Vilathikulam.

3. M.Kumar,
S/o. Madasamy.
1/38, Chidambar Nagar,
Vilathikulam.

4. Dhanabalan,
Document Writer.

1/38, Chidambar Nagar,
Vilathikulam.

5. The Superintendent of Police,
Superintendent of Police Office,
Thoothukudi District.

6. The Inspector of Police,
Vilathikulam Police Station,
Vilathikulam.

Thoothukudi District.

--- Respondents

This petition was filed by Tr.N.Kalimuthu., Advocate before this court. Coming on this day for orders, by perusing the available materials this court delivers the following...

ORDER

1. Heard the Petitioner's counsel and perused the materials on record.
2. The Petitioner had came up with the present petition, to direct the Inspector of Police, Vilathikulam Police Station to file F.I.R. on the petitioner's complaint against the respondents 1 to 4.
3. In the affidavit filed with the petition, the petitioner alleged that respondents 1 to 3 are relatives. Respondent 4 is a document writer. The petitioner's case is that, the petitioner in january 2020 requested a loan of Rs.32,00,000/- from the 2nd respondent. For security to the loan, the 2nd respondent demand the petitioner to execute a sale deed and a cheque. Both the petitioner and the 2nd respondent also agreed that after repayment of loan, the sale deed must be canceled and the cheque should be returned. According to the agreement, the petitioner obtained the loan amount and executed a

sale deed in Doc.No.376/2020 in the name of 1st respondent pertaining to the 12 acre 90 cents property in patta no.539, survey no.57/1 and survey no. 92/3. The petitioner also issued a cheque from his son Richards to the 2nd respondent. On June 2021, when the petitioner returned the loan amount with interest the 1st and 2nd respondent denied to get the amount, to cancel the sale deed and to return the cheque. Further the 1 to 3 respondents scolded the petitioner with obscene words, threatened to kill, trespassed into the house, that was located in the property the 1st respondent purchased and damaged the articles. Aggrieved by this, on 08.08.2022 the petitioner filed a complaint before the vilathikulam police station and before the Superintendent of Police, Tuticorin. But as the police neither registered F.I.R., nor conducted any investigation, the petitioner came up with this present petition u/s. 156(3) Cr.P.C.

4. The petition averments clearly shows that the petitioner had exhausted all the remedies available U/s. 154(1) and 154(3) of Cr.P.C. Being so, the information relating to commission of offence given to the police by the petitioner shall not be kept pending without following the directions issued by our Hon'ble Supreme Court in *Lalita Kumari vs Govt. of U.P.& Ors* on 12 November, 2013 and our Hon'ble High Court in *Sugesan Transport Pvt. Ltd vs The Inspector Of Police* on 17 August, 2016.

5. Thus as per the law laid in the above said judgments, on receipt of information regarding an offence, the investigation officer must proceed as follows,

- 1) If the information received from the petitioner discloses, commission of a cognizable offence, then the same shall be registered as F.I.R.
- 2) If an information received does not disclose a cognizable offence, the police officer shall conduct a preliminary inquiry to ascertain whether cognizable offence is disclosed or not.
- 3) If the inquiry discloses the commission of a cognizable offence, then F.I.R. must be registered but in respect of following matters a)

family/matrimonial disputes, b) commercial offences, c) medical negligence cases, d) cases where there is abnormal delay/latches in initiating criminal prosecution, for example over 3 month delay, preliminary inquiry is envisaged prior to registration of FIR.

4) If the preliminary inquiry ends in closing the complaint, the disclosure report must be recorded along with reasons and a copy of the same shall be furnished to the complainant within one week.

5) All information relating to cognizable offences whether resulting in registration of FIR or leading an inquiry must be reflected in the general diary/station diary/daily diary of the police station.

6. This petition filed by the petitioner at the outset, discloses prima-facie circumstance to show that a non- cognizable offence was made out. But the entire offence arises out of a sale deed in Doc.No.376/2020 executed by the petitioner on behalf of the 1st respondent. The petitioner allege that the sale deed was executed as a security to the loan that he obtained from the 2nd respondent. But no such agreement was produced before this court and nor the sale deed contain any such recital. Thus no document was filed to show that the sale deed in Doc.No.376/2020 was executed fraudulently by the respondents 1 to 4. Further the petitioner allege that the respondents 1 to 4 trespassed into the property in the sale deed, by passing through the petitioner's property, without the petitioner's permission and damaged the articles. The petitioner also allege that the respondents 1 to 3 had scolded the petitioner with obscene words and threatened to cause death. But the petitioner failed to disclose the date of such occurrence in the complaint made before police. Thus from the above discussion, because of the latches found, this petition warrants preliminary enquiry before filing an F.I.R. **Thus this court directs the Inspector of Police, Vilathikulam to conduct a preliminary enquiry and then to follow the directions of our Hon'ble Supreme Court as extracted supra.**

7. The copy of this order along with the written information of the petitioner is forwarded to the Inspector of Police, Vilathikulam for compliance.

8. In the result, this petition is allowed.

Dictated to the typist, typed by him, corrected and pronounced by me in the open court on 1st day of November 2022.

/Sd/-Tr.M.P.Ramkishore.
Judicial Magistrate,
Vilathikulam.

Petitioner side Documents :

1. The Sale Deed in Document No. 1418 of 2005 dated 29.08.2005 – Xerox Copy.
2. The Sale Deed in Document No. 376 of 2020 dated 18.02.2020 – Xerox Copy.
3. The Sale Deed in Document No. 43 of 2021 dated 06.01.2021 – Xerox Copy.
4. The Sale Deed in Document No. 986 of 1989 dated 16.10.1989 – Xerox Copy.
5. The Sale Deed in Document No. 904 of 2015 dated 16.04.2015 – Xerox Copy.
6. The Sale Deed in Document No. 4181 of 2007 dated 27.12.2007 – Xerox Copy.
7. The Sale Deed in Document No. 2230 of 2007 dated 19.07.2007 – Xerox Copy.
8. CSR Receipt No. 488/2022 dated 02.09.2022 – Xerox Copy.
9. The Complaint given by the Petitioner before respondent No.5 through Registered Post with AD dated 08.08.2022 – Xerox Copy.
10. Postal Receipt dated 08.08.2022 – Xerox Copy.
11. AD Card 08.08.2022 – Xerox Copy.
12. The Complaint given by the Petitioner before respondent No. 6 through registered post with AD dated 08.08.2022 – Xerox Copy.
13. Postal Receipt dated 08.08.2022 – Xerox Copy.
14. AD Card dated 10.08.2022 – Xerox Copy.
15. The Complaint given by the Petitioner before Honorable Chief Minister of Tamil Nadu through registered post with AD dated 12.09.2022 – Xerox Copy.
16. Postal Receipt dated 12.09.2022 – Xerox Copy.
17. AD Card dated 13.09.2022 – Xerox Copy.

18. The Property Tax Receipts (4 Receipts) – Xerox Copy.

19. The Receipt of Electricity Consumption charges (3 Receipts) – Xerox Copy.

Respondent side Documents : Nil.

/Sd/-Tr.M.P.Ramkishore.
Judicial Magistrate,
Vilathikulam.

/True Copy/

Judicial Magistrate,
Vilathikulam.