

P. Devaraj, Forest Contractor Vs. Chathu, Timber Merchan and ors.

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SooperKanoon Citation : sooperkanoon.com/903371

Court : Kerala

Decided On : Apr-08-2010

Judge : K.M. Joseph and; M.L. Joseph Francis, JJ.

Acts : Code of Criminal Procedure (CrPC) - Section 156(3)

Appeal No. : W.P. (C) No. 36667 of 2009 (C)

Appellant : P. Devaraj, Forest Contractor

Respondent : Chathu, Timber Merchan and ors.

Advocate for Def. : R. Parthasarathy, Adv.

Advocate for Pet/Ap. : H. Badaruddin, Adv.

Judgement :

K.M. Joseph, J.

1. Petitioner has approached this Court alleging harassment by the respondents, in the matter of civil dispute between the petitioner and respondents 1 to 4, pursuant to Exts.P1 to Ext.P3 (a) and P3(b).

2. Briefly put, the case of the petitioner is as follows:

Petitioner has supplied timber logs to respondents 1 to 4. Petitioner has not yet received the entire amount due from them. There is an arrear of Rs. 7,38,737/-. It

is stated that the first respondent is having the sole responsibility to make the payment of arrears. It is also submitted that respondents 2 and 3 are duty bound to send C Forms to the petitioner for the timber logs received by them from the petitioner. There is reference to Exts.P1 and P2 lawyer notices. While so, it is stated that the petitioner received phone calls and there is harassment by the fifth respondent, Sub Inspector of Police. A Counter Affidavits filed by respondents 1 and 3 to which a Reply Affidavit also is filed.

3. We heard the learned Counsel appearing including the learned Government Pleader. Learned Counsel appearing for respondents 1 and 3 and 2 and 4 would submit that the petitioner has cheated them. They would further point out that they had approached the learned Magistrate who has ordered investigation under Section 156(3) of the Cr.P.C. According to them, due to the intervention of this Court, the investigation ordered by the Magistrate is not being completed. Learned Government Pleader also would submit that the Magistrate has passed an order directing investigation under Section 156(3) of the Cr.P.C. He would further submit that crime is not registered in view of the orders passed by this Court.

4. Having heard the learned Counsel appearing for the parties, in view of the order passed by the Magistrate, we do not think it appropriate for the Writ Court to hold up further action by the police in the matter. Accordingly, the Writ Petition is disposed of as follows:

Respondents 5 and 6 will be free to proceed in accordance with law, pursuant to the direction of the Magistrate, to complete the investigation in the matter. We further make it clear that it is open to the petitioner, if so advised, to challenge the proceedings of the Magistrate before the appropriate forum.