



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH

CRL.O.P (MD) No.485 of 2015

1.Sivasakthivel @ Sarvajit

2.M.Vamathevan

.. Petitioners/Accused Nos. 2 & 5

Vs.

1. The Inspector of Police,
Srivilliputhur Town Police Station,
Srivilliputhur
(Crime No.356 of 2014)

2.The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Srivilliputhur. .. Respondents 1 and 2/Complainants

3.K.Sakthivel ..Respondent NO.3/Defacto Complainant

Prayer:Criminal Original Petition is filed under Section 482 of Cr.P.C.,
praying this Court, to call for the records relating to Crime No.356 of
2014, pending on the file of the Inspector of Police, Srivilliputhur Town
Police Station, Srivilliputhur and quash the same.

For Petitioners	: Mrs.Maria Roseline
For R1 & R2	: Mr.K.Anbarasan Govt. Advocate (Crl.Side)
For R3	: Mr.M.P.Senthil

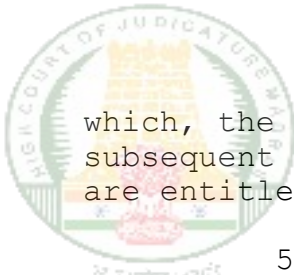
ORDER

The Criminal Original Petition is filed seeking to quash the
case in Crime No.356 of 2014, pending on the file of the Inspector of
Police, Srivilliputhur Town Police Station, Srivilliputhur.

2. Heard the learned counsel for the petitioner and also the
learned Government Advocate(Crl.Side) for respondents 1 and 2 and the
learned counsel appearing for the third respondent.

3.An FIR has been registered against the petitioners in Crime
No.356 of 2014 for the alleged offences under Sections 103(c) and 104 of
Trade Mark Act 1999 and Section 420 IPC. Challenging the same, the
petitioners who have been arrayed as accused there under have come
forward to file this petition.

4. The learned counsel for the petitioners submitted that Trade
Mark originally belongs to one S.K.Perumalappan. He was running a
proprietary concern. The said S.K.Perumalappan expired on 07.10.2004. The
petitioners are the legal heirs of the said S.K.Perumal Appan. Before the
death of S.K.Perumalappan, there was an assignment and Will. Pursuant to



which, the petitioners acquired the right. Even assuming that the subsequent firm in existence, being the legal heirs the petitioners are entitled to use the Trade Mark.

5. The learned counsel for the respondent No.3 submitted that the statement that Trade Mark belongs to the deceased S.K.Perumal Appan is not correct. Even the said S.K.Perumal Appan has made an averment in the plaint in O.S.No.10 of 1980 stating that Trade Mark belongs to the firm. The firm continues as on today. The mere pendency of the suit is not a bar. The investigation is at crucial state and therefore, no interference is required.

6. The learned Government Advocate, on instruction, submitted that investigation has already been completed and the final report is filed before the learned Judicial Magistrate No.2, Srivilliputhur on 08.01.2015. Therefore, FIR need not be quashed when final report has been filed for the offences under Sections 103 (a) (c) (e), and 104 of Trade Mark Act 1999 and Sections 420, 484, 485, 486, 109 IPC.

7. This Court is not willing to go into the averment made on merit. Admittedly, the final report has been filed before the jurisdictional court. Therefore, only remedy open to the petitioner to challenge the final report after cognizance is taken by the jurisdictional court. Accordingly, the petition stands dismissed. Consequently, connected M.P.s are closed.

8. The learned Judicial Magistrate No.2, Srivilliputhur is directed to expedite the process of taking cognizance preferably within a period of four weeks from the date of copy of this order. If the final report is said to have been returned, the respondents 1 and 2 are directed to take adequate steps to re-present the same.

sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar

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To

1.The Inspector of Police,
Srivilliputhur Town Police Station, Srivilliputhur.

2.The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police, Srivilliputhur.

3.The Judicial Magistrate NO.2, Srivilliputhur.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1Cc to Mr.M.P.Senthil Advocate SR.No.41232

+1CC to Mr.J.Maria Roseline Advocate SR.No.41469

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Dated: 24.07.2015



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