



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P. (MD) No.3193 of 2017

and

Crl.M.P. (MD) No.2426 of 2017

1.V.P.R.Kamaleshwari

2.A.Swarnalatha

: Petitioners/Accused 4 &amp; 5

-Vs-

1.State rep. by,

The Inspector of Police,

District Crime Branch,

Thoothukudi.

(Cr.No.5 of 2017).

:Respondent No.1/Complainant

2.A.Livin Devakumar

: Respondent/Defacto Complainant

**PRAYER:** Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records in Crime No.5 of 2017 on the file of the first respondent and quash the same.

For Petitioners

: Mr.C.T.Perumal

For Respondent No.1

: Mr.A.P.Balasubramani,

Government Advocate (Crl.side)

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**ORDER**

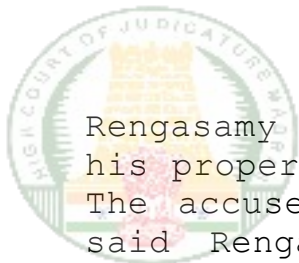
On the complaint lodged by the Branch Manager, Tamil Nadu Mercantile Bank Limited, Pudukottai Branch, the respondent Police has registered a case in Crime No.5 of 2017, on 30.01.2017, under Section 420 of the Indian Penal Code against ten accused, challenging which, Accused Nos.4 and 5 are before this Court for quashing the First Information Report.

2. Heard Mr.C.T.Perumal, learned counsel for the petitioners and Mr.A.P.Balasubramani, learned Government Advocate (Criminal side) appearing for the first respondent.

3. Today, Mr.A.Arumuga Nainar, Sub-Inspector of Police, District Crime Branch, Thoothukudi District, is present.

<https://hcservices.ecourts.gov.in/hcservices/>

4. It is alleged by the defacto complainant that one



Rengasamy Nadar had obtained loan from the bank after mortgaging his properties and that before discharging the liability, he died. The accused in this case are said to be the legal heirs of the said Rengasamy Nadar and that they had illegally sold the mortgaged properties to third parties and created encumbrance.

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5. Mr.C.T.Perumal, learned counsel appearing for the petitioners submitted that the first petitioner, who is the wife of Rengasamy Nadar, is aged about 80 years and the second petitioner is the daughter of the said Rengasamy Nadar and that they had only executed a release deed dated 19.01.2011 in respect of the entire ancestral properties including the mortgaged properties in favour of the male heirs and, therefore, they had not alienated the mortgaged properties as alleged in the First Information Report.

6. There appears to be force in the submission of Mr.C.T.Perumal, learned counsel for the petitioners. However, if stay of investigation is granted, it will cause undue prejudice not only to the *defacto* complainant, but also, to the petitioners themselves. Therefore, this Criminal Original Petition is closed with a direction to the Inspector of Police, District Crime Branch, to look into this aspect and proceed with the investigation. If it is found that the petitioners were not involved in alienating the mortgaged properties as alleged by the *defacto* complainant, it is needless to state that no prosecution shall be launched against them. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Co)

/True copy/

Sub Assistant Registrar

To

1.The Inspector of Police,  
District Crime Branch,  
Thoothukudi.

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

+1 cc to Mr.C.T.Perumal, Advocate in SR.No. 16289

SML

AE/SKN/SAR4/04.04.2017/2p/4C