



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.R.C.(MD)Nos.482 to 484 of 2017

and

CrI.M.P.(MD)Nos.5234, 11395, 5235 and 11396 of 2017

WEB COPY

CrI.R.C.(MD)No.482 of 2017:

1.Dr.Kumaravel

2.Alagesan

3.Murugan : Petitioners/Respondents No.1,3 and 4

Vs.

1.The State represented by,
The Inspector of Police,
Valliyoore Police Station,
Tirunelveli District.

: 1st Respondent/Respondent

2.Balamurugan

: 2nd Respondent/Petitioner

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying to call for the entire records pertaining to the order passed by the learned Judicial Magistrate, Valliyoore, Tirunelveli District, in Cr.M.P.No.3393 of 2017, vide its order dated 29.05.2017 and set aside the said order as well as the consequential proceedings of the first respondent, if any, initiated.

CrI.R.C.(MD)No.483 of 2017:

1.Dr.Kumaravel

2.Santha Kumaravel

3.Alagesan : Petitioners/Respondents No.1,2 and 4

Vs.

1.The State represented by,
The Inspector of Police,
Valliyoore Police Station,
Tirunelveli District.

: 1st Respondent/Respondent

2.Balamurugan

: 2nd Respondent/Petitioner

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying to call for the entire records pertaining to the order passed by the learned Judicial Magistrate, Valliyoore, Tirunelveli District, in Cr.M.P.No.3697 of 2017, vide its order dated 02.06.2017 and set aside the said order as well as the consequential proceedings of the first respondent, if any, initiated.



Crl.R.C. (MD) No.484 of 2017:

Dr.Kumaravel

: Petitioner/Petitioner

Vs.

1.The State represented by,
The Inspector of Police,
Valliyoor Police Station,
Tirunelveli District.

2.Balamurugan

3.Thanga Kumar

4.Vincent George

5.Thomas @ Savari Muthu

: Respondents/Proposed Accused
Nos.1 to 4

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying to call for the entire records pertaining to the order passed by the learned Judicial Magistrate, Valliyoor, Tirunelveli District, in Cr.M.P.No.3696 of 2017, vide its order dated 02.06.2017 and set aside the said order as well as the consequential proceedings of the first respondent, if any, initiated and consequently, direct the first respondent to register an F.I.R., on the basis of the petitioner's complaint dated 09.05.2017.

For Petitioner : Mr.R.Anand
(In all cases)

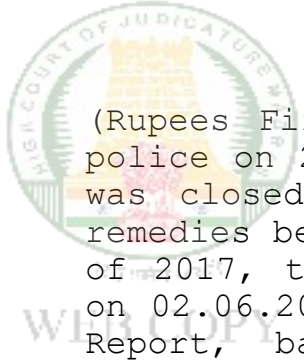
For Respondent No.1 : Mrs.S.Bharathi,
(In all cases) Government Advocate (Crl.side)

For Respondents 2 to 4 : Mr.S.R.Anbarasu in Crl.R.C.(MD)
No.484/17 and
For R2 in Crl.R.C.(MD).No.482 & 483/17

For Respondent No.5 : No Appearance
in Crl.R.C. (MD) No.484/17

COMMON ORDER

Shop Nos.31 and 32, Radhapuram road, Valliyoor belongs to one Kumaravel, S/o.Arunachalam Chettiar and that he had given the property on rent to Balamurugan sometimes in the year 2001. According to the landlord, Balamurugan had handed over the possession of the property on 29.05.2015 and thereafter, the shops were demolished and new shops were constructed. While so, Balamurugan filed a petition in Cr.M.P.No.3697 of 2017 before the learned Judicial Magistrate, Valliyoor, under Section 156(3) of the Code of Criminal Procedure alleging that on 25.02.2017 around 12.00 a.m., the accused had demolished the godown with JCB and had taken away the materials kept in the godown valued at Rs.15,00,000/-



(Rupees Fifteen Lakhs only); that when complaint was given to the police on 26.02.2017, CSR.No.74 of 2017 was registered and the same was closed on 12.03.2017 advising the parties to work out their remedies before the Civil Court. On this complaint in Cr.M.P.No.3697 of 2017, the learned Judicial Magistrate, Valliyoor, passed orders on 02.06.2017, directing the police to register a First Information Report, based on which, the police have registered a First Information Report in Crime No.179 of 2017 under Sections 147, 447, 379 of the Indian Penal Code and Section 3 of PPDL Act against the petitioners herein. Challenging the order dated 02.06.2017 passed by the learned Judicial Magistrate, Valliyoor in Cr.M.P.No.3697 of 2017, the accused have filed CrI.R.C.(MD)No.483 of 2017.

2. Balamurugan lodged a second complaint before the learned Judicial Magistrate, Valliyoor, which was taken on file as Cr.M.P.No.3393 of 2017 under Section 156(3) of the Code of Criminal Procedure, in which, he has alleged that on 07.05.2017 around 02.30 a.m., Dr.Kumaravel, Arun Selvan, Alagesan, Murugan and ten others forcibly demolished the shops and had taken illegal possession of it. The learned Judicial Magistrate, Valliyoor, passed orders in Cr.M.P.No.3393 of 2017 on 29.05.2017, directing the police to register a First Information Report, based on which, the police have registered a case in Crime No.180 of 2017 on 23.06.2017 under Sections 147, 447 and 109 of the Indian Penal Code against the petitioners and others, challenging which, the accused have filed CrI.R.C.(MD)No.482 of 2017.

3. When the aforesaid orders were being passed by the learned Magistrate, a petition was filed by Dr.Kumaravel in Cr.M.P.No.3696 of 2017 under Section 156(3) Cr.P.C., alleging that on 09.05.2017, around 11 'O' Clock, Balamurugan and his group attempted to take forcible possession of the shops and when it was questioned, they criminally intimidated the complainant. The learned Magistrate has passed orders in Cr.M.P.No.3696 of 2017 on 02.06.2017 directing the police to enquire this also. However, no First Information Report has been registered, in spite of the direction issued by the learned Magistrate in Cr.M.P.No.3696 of 2017. However, Dr.Kumaravel has filed CrI.R.C.(MD)No.484 of 2017, challenging the order dated 02.06.2017 in Cr.M.P.No.3696 of 2017 on the ground that the learned Magistrate has not given a positive direction to the police to register a First Information Report. Thus, there are three revision cases before this Court.

4. Heard the submissions made on either side.

5. The learned counsel for the revision petitioners submitted that Balamurugan, Vincent George, Thomas @ Savari Muthu and Thanga Kumar had filed W.P.(MD)Nos.5244 to 5247 of 2017 against the police authorities as well against the landlords with the following prayer:

"Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of a writs of Mandamus forbearing the respondents 4 and 5 from



threatening the petitioners to vacate the shop bearing Old Door Nos.31,30, 29 and 32 respectively, in Radhapuram Road, Valliyoor, Tirunelveli District."

6. This Court has passed the following order on 27.03.2017 in the said Writ Petitions:

"4. The learned counsel for the 6th respondent refuted the contention of the petitioners that they are in possession of the shop premises. In this regard, he submitted that the petitioners filed a civil suit for bare injunction against the 6th respondent claiming themselves to be in possession of the shop premises and the same came to be dismissed by the civil Court.

5. The learned Additional Government Pleader submitted that the petitioners have given complaint to the police making allegations against the 6th respondent and therefore, the 5th respondent had called the petitioners for enquiry and instead of appearing before the police for enquiry, they have come up with these writ petitions making allegations against the police officers.

6. It is also represented that the petitioners are accused in Crime No.187/2016 under Sections 147, 148, 294 (b), 448 and 506(ii) IPC and Section 3 of TNPPDL Act on the complaint lodged by the 6th respondent.

7. In the light of the aforesaid factual matrix, the prayer of the petitioners cannot be acceded to by this Court. The police is directed to take appropriate action against the accused in Cr.No.187/2016 and afford protection to the 6th respondent. Therefore, these petitions are dismissed with liberty to the petitioners to work out their remedy in the manner known to law. No costs. Consequently connected Miscellaneous Petitions are closed."

7. Challenging the order passed by this Court, Writ Appeals were filed in W.A.(MD)Nos.524 to 527 of 2017 and a Division Bench of this Court has passed the following order on 11.05.2017:

"The present Writ Appeals are directed against the well speaking impugned common order passed by the learned single Judge of this Court in W.P(MD)Nos.5244 to 5247 of 2017, inter alia stating that the respondents 4 and 5 being the Inspector of Police, Valliyoor Police Station, Valliyoor, by misusing their power cannot interfere in a civil dispute pending between the parties. Adding further, it is stated that the respondents 4 and 5 without having any jurisdiction, attempted to interfere with the civil dispute pending between the parties and they are indirectly pressurizing the appellants to give up their right in respect of the appellants' property. But, we



are not able to find any justification or merits in the present Writ Appeals for the following two reasons.

2. Firstly, the appellants had already approached the Court of Principal District Munsif Court, Valliyoor in O.S.No.98 of 2016 seeking permanent injunction restraining the defendants Arunselvan and Kumaravel, their men or agents etc., from in any manner interfering with the plaintiffs' peaceful possession. Although the appellants in W.A(MD)Nos.524 and 527 of 2017 have filed a civil suit in O.S.No.98 of 2016 against the Arunselvan, Kumaravel, the Inspector of Police, Valliyoor Police Station, Valliyoor, the Deputy Superintendent of Police, Valliyoor Division, Valliyoor and the District Collector, it is not known how they are entitled to come to this Court by filing the writ petitions seeking the very same prayer for issuance of injunction against the same defendants/respondents herein, adding two more respondents.

3. Secondly, it is a well settled position of law that no parallel proceedings is permissible in law. As a matter of fact, when a civil suit in O.S.No.98 of 2016 filed by the appellants in W.A(MD) Nos.524 and 527 of 2017 was dismissed for default on 19.08.2016 and they have moved an application for restoration of the suit in I.A.No.287 of 2017 in O.S.No.98 of 2016 and the same is posted on 27.06.2017 for filing counter.

4. A mere reading of the prayer in the plaint and the affidavit filed in support of the writ petitions clearly shows that the appellants have come to this Court for the same relief. Therefore, we are not able to find out any justification or merits in the present Writ Appeals and therefore, we are not inclined to interfere with the order passed by the learned single Judge of this Court.

5. In the result, these Writ Appeals are dismissed. No Costs. Consequently, connected Miscellaneous Petitions are closed."

8. Thus, this Court has denied the relief sought for by Balamurugan and his group on the ground that they were not able to get any relief from the Civil Court in O.S.No.98 of 2016. That apart, Balamurugan and his group are the accused in Crime No.187 of 2016 for the offences under Sections 147, 148, 294(b), 448, 506(2) IPC and Section 3 of TNPPDL Act on the complaint that was lodged by Kumaravel.

9. It is seen that Balamurugan had suppressed these vital facts before the learned Judicial Magistrate, Valliyoor and has set out a



case as if Kumaravel and his party had demolished the godown on 25.02.2017 and the shops on 07.05.2017. Balamurugan has filed 18 documents in Cr.M.P.No.3697 of 2017 and 24 documents in Cr.M.P.No.3393 of 2017 before the learned Judicial Magistrate in support of his complaint, but, had failed to submit the two orders passed by this Court. On this short ground alone, Crl.R.C.(MD) Nos.482 and 483 of 2017 deserve to be allowed.

10. In the result, Crl.R.C.(MD)Nos.482 and 483 of 2017 are allowed and the First Information Reports in Crime No.179 of 2017 and Crime No.180 of 2017 registered consequent to the directions passed by the learned Judicial Magistrate, Valliyoor, stand quashed. Consequently, the connected miscellaneous petitions are closed.

11. As regards Crl.R.C.(MD)No.484 of 2017, this Court finds that there are no prima facie materials in the complaint lodged by Dr.Kumaravel in Cr.M.P.No.3696 of 2017 warranting an investigation by the police.

12. In the result, Crl.R.C.(MD)No.484 of 2017 is dismissed, but, however, the order dated 02.06.2017 in Cr.M.P.No.3696 of 2017 passed by the learned Judicial Magistrate, Valliyoor, is also set aside.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate,
Valliyoor, Tirunelveli District.
- 2.The Inspector of Police,
Valliyoor Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Common Order made in
Crl.R.C. (MD)Nos.482 to 484 of 2017

Dated:-
17.01.2018

sml

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

CM/HR/SAR 4/05.02.2018/6P/4C