



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2019

CORAM:

THE HONOURABLE **MR. JUSTICE N. SESHASAYEE**

Crl.O.P.[MD]No.2641 and 2618 of 2019

in

Crl.M.P.[MD]No.1466 of 2019

Crl.O.P.[MD]No.2641 of 2019:

- 1.P.Anitha
- 2.Ramachandran
- 3.Murugesan
- 4.Ayyappan
- 5.Raman @ Hari Ramachandran
- 6.Suresh
- 7.Ganesan @ Ganapathy
- 8.Venugopal
- 9.Suresh
- 10.Sundar

: Petitioners

/Vs./

- 1.The Sub-Inspector of Police,
Palavur Police Station, Palavur, Thirunelveli District.

- 2.Thanga Vijayan

: Respondents

PRAYER in Crl.O.P.[MD]No.2641 of 2019: Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records relating to the FIR in Crime No.177 of 2018 dated 20.08.2018 on the file of the Pazhavur Police Station, Thirunelveli District and quash the same by allowing this criminal original petition.

For Petitioners : Mr.D.Nallathambi

For R-1 : Mr.V.Neelakanden

Additional Public Prosecutor

Crl.O.P.[MD]No.2618 of 2019:

P.Anitha

: Petitioners

/Vs./

- 1.The Superintendent of Police,
O/o.The Superintendent of Police,
Thirunelveli.
- 2.The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Valliyur, Thirunelveli District.



3.The Inspector of Police,
Panangudi Police Station,
Panangudi, Thirunelveli District.

4.The Sub-Inspector of Police,
Palavur Police Station,
Palavur, Thirunelveli District.

5.Jaya

6.Maasanamuthu

7.Sivadevi

8.Geetha

9.Gnanarajan

: Respondents

PRAYER in CrI.O.P.[MD]No.2618 of 2019: Criminal Original Petition is filed under Section 482 of Cr.P.C. to direct the respondents 2 to 4 not to interfere with the matters relating to civil disputes by allowing this criminal original petition.

For Petitioner	: Mr.S.Rajeshkanna
For R-1 to R-4	: Mr.V.Neelakanden
	Additional Public Prosecutor

COMMON ORDER

1.1. The present petitioners in CrI.O.P.[MD]No.2641 of 2019 are arrayed as A1 to A10 in the case in Crime No.177 of 2018, pending investigation by the first respondent. The allegation in the FIR is that a certain Thanga Vijayan / *de facto* complainant has purchased a piece of property on 09.05.2014 from one Balakrishnan, S/o.Ayyakutty, in the name of his wife Jaya and that ever since she has been in possession and enjoyment of the property. While so, on 19.08.2018, Balakrishnan's son namely Tamilselvan had died and for burying his body, on 20.08.2016 at about 09.00 a.m., Balakrishnan's daughter Anitha and few named others came with crowbar and other equipments to dig a grave in the property purchased by the defacto complainant. When this came to the knowledge of the petitioner, his wife rushed to the scene of crime where they threatened and abused the former. On the basis of this, a case came to be registered.

1.2. A1 namely Anitha and other accused have now filed CrI.O.P. (MD)No.2641 of 2019 to quash the FIR against them.

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

2. A1 Anitha has filed another petition in CrI.O.P.(MD)No.2618 of 2019 seeking a direction to the respondents 2 to 4, who are all



police officials, that they should not interfere with a matter which is essentially civil dispute.

3.1. Elaborating the background of the case, the learned counsel appearing for the petitioner submitted that so far as the present case is concerned, there are at least two suits pending with regard to the property, which the defacto complainant is said to have purchased. First suit is O.S.No.8 of 2016 filed by one M.Gnanarajan against the petitioner's father Balakrishnan, the petitioner and others for bare injunction. Yet another suit is O.S.No.49 of 2016 and the same is filed by the defacto complainant's wife and children, again for bare injunction.

3.2. The learned petitioners' counsel further submitted that the Al's father namely Balakrishnan had borrowed some money from Thanga Vijayan as security, Thanga Vijayan has obtained a sale deed, but there is no real intention on the part of Balakrishnan to sell the property. Be that as it may, it is in connection with this controversy a false case has been foisted against the petitioners. To settle the dispute on title, the respondents 2 to 4 in Crl.O.P. (MD)No.2618 of 2019, show over enthusiasm to interfere with it.

4. The learned Additional Public Prosecutor submitted that the investigation is substantially concluded and the charge sheet will be laid soon.

5. This Court carefully perused the FIR and other materials in the typed set of papers made available by the petitioners. On going through the FIR, on the face of it, it not only disclosed the commission of the offence, but also attributes bodily presence of the first petitioner and specific overt act attributed to them. In the course of his arguments, the learned counsel for the petitioners submitted that the respondents forces the petitioners to give a statement in writing, wherein the allegation is all about the demand for money and a promise for repayment of money and no allegation has made in the FIR as indicated therein.

6. This Court is satisfied that a bare perusal of the FIR discloses commission of specific offences and it may have its roots in a civil dispute or otherwise. For the present, this Court considers that the matter is required to be investigated as there are no materials available to quash the FIR at this stage. Therefore, the petition is Crl.O.P.(MD)No.2641 of 2019 deserves to be dismissed and accordingly, dismissed.

7. Having stated thus, admittedly, there are civil litigations pertaining to the property which the defacto complainant Thanga Vijayan had said to have purchased in favour of his wife Jaya, and this dispute arising out of rival claim of title to the property has to be adjudicated by the civil Court. None of the respondents 1 to 3 in Crl.O.P.(MD)No.2618 of 2009 have the authority to interfere



with the judicial process involved in adjudication of those civil suits.

8. Suffice to say that barring investigation of case in crime No.177 of 2018, the investigating agency has no role to play and accordingly, they are directed not to be over enthusiastic, nor should they over step their jurisdiction while investigating the aforesaid offence. CrI.O.P.(MD)No.2618 of 2019 is allowed as per the directions given above.

9. In the result, CrI.O.P.(MD)No.2641 of 2019 is dismissed and CrI.O.P.(MD)No.2618 of 2019 is allowed on the above terms. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

Sub Assistant Registrar(CS)

sm

To

- 1.The Superintendent of Police,
O/o.The Superintendent of Police,
Thirunelveli.
 - 2.The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Valliyur, Thirunelveli District.
 - 3.The Inspector of Police,
Panangudi Police Station,
Panangudi, Thirunelveli District.
 - 4.The Sub-Inspector of Police,
Palavur Police Station,
Palavur, Thirunelveli District.
 - 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +1 CC to M/s.D.NALLATHAMBI, Advocate (SR-48989[F] dated 22/02/2019)

Common order made in
CrI.O.P.[MD]No.2641 and 2618 of 2019

Dated:

21.02.2019