



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Crl.O.P.[MD]No.5945 of 2019

and

Crl.M.P. (MD)Nos.3824 and 3825 of 2019

Muthulakshmi

: Petitioner

Vs.

1.State rep through,
Sub Inspector of Police,
Devadanapatti Police Station,
Theni District.
(Crime No.224 / 2018)

...1st Respondent/Complainant

2.Kumaresan

...2nd Respondent/Defacto
Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records of the case in S.T.C.No.212 of 2019 on the file of the Judicial Magistrate Court, Periyakulam and quash the same.

For Petitioner
For R1

: Mr.R.Suriyanarayanan
: Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl.Side)

ORDER

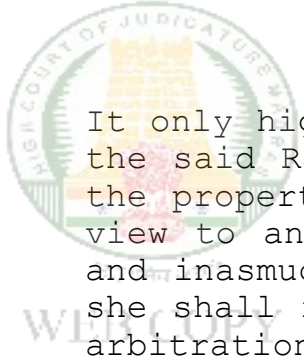
The present petition is filed to quash the final report in Crime No.224 of 2018, which is taken cognizance by the Magistrate and pending in STC No.212 of 2019 for the offence under Section 447 IPC.

2. The quintessence of the allegation is that one Raju and the petitioner have floated a partnership firm for doing business in real property. The firm has been developing vacant site into layout and selling plots to intended purchasers. While so differences arose between the partners and the matter came to be referred to arbitration by this Court in Crl.O.P.(MD)No.49 of 2017. Till date the partnership survives and the petitioner continues to be a partner. Admittedly, the property also belongs to the firm and not of the individual property to other partner.

3. The learned Government Advocate (Crl.Side) concurred with the statements up to this point.

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

4. Now in this backdrop the final report is carefully perused.



It only highlights that the defacto complainant, who is a nephew of the said Raju had made a complaint that the petitioner had visited the property and shouted from the road formed in the layout with a view to annoy them. Inasmuch as the property belongs to the firm and inasmuch as there is no injunction against the petitioner that she shall not enter the property of the firm, mere pendency of the arbitration does not *ipso facto* make the petitioner a stranger. It therefore means that the visit of the petitioner to the property owned by the firm cannot *ipso facto* be termed as illegal. If however other partner or his nephew are annoyed by the visit of the another partner, then it is personal to them but will not constitute an offence within the meaning of Section 447 IPC.

5. This Court finds merit in the statement of the learned counsel for the petitioner and chooses to quash the final report laid in Crime No.224 of 2018. Accordingly, it is quashed and this Criminal Original Petition is allowed. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate Court,
Periyakulam

2.Sub Inspector of Police,
Devadanapatti Police Station,
Theni District.

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

+1 CC to M/s.R.SURIYANARAYANAN, Advocate (SR-62825[F] dated 26/04/2019)

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26.04.2019

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