



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R. SWAMINATHAN**

Crl.O.P(MD) . Nos.6347 of 2016 and 23453 of 2015
and
Crl.M.P. (MD)No.3156 of 2016

Crl.O.P(MD) . No.6347 of 2015

N.Dhanraj ... Petitioners/3rd Accused

Vs

1.The Inspector of Police,
District Crime Branch,
Tiruchirappalli,
(Crime No.29 of 2015) ...1st Respondent/Complainant

2.R.Michael Paulraj ..2nd Respondent/De-facto complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records of entire proceedings of the First Information Report in Crime No.29 of 2015, on the file of the first respondent, quash the same as against the petitioner.

For Petitioners : Mr.P.Pethurajesh

For Respondents : Mr.A.Robinson
Government Advocate (Crl. side)
(for R1)

Mr.R.S.Sivaraman (for R2)

Crl.O.P(MD) . No.23453 of 2015

R.Michael Paulraj ... Petitioner

Vs.

The State Rep. by
1.The Superintendent of Police,
Tiruchirappalli.



2.The Inspector of Police,
District Crime Branch,
Tiruchirappalli.
(In Crime No.29 of 2015)

3.India Infoline Finance Limited,
Tollgate Branch,
Office at Trunk Road,
No.1, Tollgate,
Opposite to PNB Bank,
Trichy-621216,
Represented by its Authorised Signatory,
M.Sundarshwar,
S/o.K.Mohan Duraisamy

... Respondents

[3rd respondent is suo-motu impleaded vide order
dated 21.10.2019 in Crl.O.P.(MD).No.23453 of 2015]

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. to direct the 2nd respondent, the Inspector of Police, District Crime Branch, Tiruchirappalli, to recover the Jewels connected with the case in Cr.No.29/2015 lying with the IIFL No.1 Tollgate Branch Tiruchirappalli in the name of accused (Jegadeesan Loan Ac.Nos. 959433, 959236, Raja Loan Ac.Nos.986004, 986110 and Petitioner loan Ac.No.2196943) and produce the same before the Judicial Magistrate Court No. III, Tiruchirappalli with in a time frame fixed by this Court.

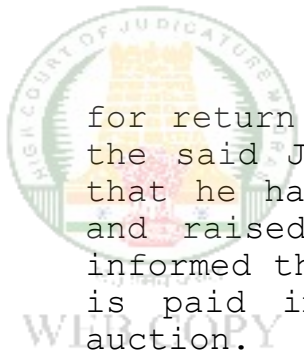
For Petitioner : Mr.R.S.Sivaram

For Respondents : Mr.A.Robinson
Government Advocate (Crl. Side)
(for R1 and R2)

Mr.P.Pethurajesh (for R3)

COMMON ORDER

The second respondent in Crl.O.P.(MD)No.6347 of 2016 is the de-facto complainant. Crime No.29 of 2015 was registered on the file of the District Crime Branch, Tiruchirappalli, for the offences punishable under Sections 406, 420 and 506(i) of IPC. The second respondent had availed loan from the Indian Bank in the year 2010. He could not service the said loan. The pledged jewelry were put up for public auction. At that stage, one Jagadeesan and Raja, who are brothers, residing in Samayapuram, Trichy, approached the de-facto complainant and they arranged the amount in question for redeeming the jewelry. Thereafter, the de-facto complainant was having dealings with the said Jagadeesan and Raja. In the year 2012, when the petitioner raised the requisite amount and approached Jagadeesan



for return of his jewelry after paying the principal with interest, the said Jagadeesan is said to have told the de-facto complainant that he had re-pledged the jewels with one financier by name IIFL and raised a sum of Rs.8,88,000/-. He is also said to have informed the de-facto complainant that unless a sum of Rs.2,00,000/- is paid immediately with interest, the jewels will be sold in auction.

2. According to the de-facto complainant, he thereupon approached the petitioner herein, who is the Branch Manager of the said financial institution known as IIFL. The de-facto complainant has made some serious allegations against the petitioner herein. Thereafter, the de-facto complainant lodged the impugned FIR.

3. To quash the same, Crl.O.P.(MD)No.6347 of 2016 has been filed by the petitioner herein who is shown as the third accused. The petitioner's counsel would contend that the allegations have been made primarily against Jagadeesan and Raja and that, the allegations made against the petitioner are wholly without any basis.

4. Even though the contentions of the petitioner's counsel appear to be persuasive, I am still not able to accept the same, because the case is only at the stage of investigation. The first respondent would obviously take note of all the contentions made in this petition and if found to be factual and true, charge sheet will be filed only against Jagadeesan and Raja. Since the contentions raised by the petitioner are more factual in nature, I am of the view that without prejudice to his contentions and defences, this petition deserves to be dismissed. Accordingly, Crl.O.P.(MD)No.6347 of 2016 is dismissed, leaving it open to the investigating agency to find out the culpability or otherwise of the petitioner herein. Consequently, connected miscellaneous petition is closed.

5. Crl.O.P.(MD)No.23453 of 2015 has been filed to direct the second respondent to recover the jewelry in question and produce the same before the Jurisdictional Magistrate Court.

6. As rightly pointed out by the learned counsel appearing for the intervenor/3rd respondent, the jewels in question were pledged with the intervenor institution by A1 and A2 and based on the same, money was parted with. Therefore, the intervenor institution is having legitimate security interest in the pledged jewelry. Therefore, this Court would not be justified in straightaway giving any direction in Crl.O.P.(MD)No.23453 of 2015.

7. It is further seen that the petitioner herein has already filed O.S.No.6 of 2013, on the file of the District Munsif/Mahila Court and obtained interim order of injunction in I.A.No.25 of 2013. It is open to the petitioner herein to workout his rights in the manner known to law in the said suit.



8.It is stated before this Court that the items pledged with them by A1 and A2 are very much intact and that, they have not been auctioned till date. This court directs the investigating officer/2nd respondent herein to take an inventory of all the articles in the presence of the petitioner and the authorised official of the intervenor institution. The pledged items will be duly photographed. All the measures and formalities set out in the Judgment of the Hon'ble Supreme Court of India in the case of **Sunderbhai Ambalal Desai Vs. State of Gujarat in Special Leave Petition (Crl) No.2745 of 2002**, will be followed. It is made clear that only a formal seizure will be effected and the intervenor institution will be permitted to retain the custody. The respective rights of the parties will abide by the final outcome of the civil /criminal proceedings.

9.Since the third respondent is *suo-motu* impleaded in Crl.O.P. (MD)No.23453 of 2015, the Registry is directed to carry out the necessary amendment in the cause title.

10.This Crl.O.P.(MD)No.23453 of 2015 is allowed on these terms.

Sd/-

Assistant Registrar (Crl.Side)

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/ /2020

Sub Assistant Registrar(CS)

sjj

To

1.The Judicial Magistrate Court No. III, Tiruchirappalli.

2.The Superintendent of Police, Tiruchirappalli.

3.The Inspector of Police, District Crime Branch,
Tiruchirappalli.

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

+2 CC to M/s.P.PETHU RAJESH, Advocate (SR-93390 & 93391[F] dated 21/10/2019

+1 CC to M/s.R..S.SIVA RAM, Advocate (SR-93669[F] dated 22/10/2019)

Crl.O.P(MD) . Nos.6347 of 2016 and 23453 of 2015
21.10.2019

JMN(09.01.2020) 4P : 8C

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