



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.10.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD) No.10557 of 2020

and

Crl.M.P(MD) Nos.4896 & 4897 of 2020

WEB COPY

1.T.Nagarajan

2.Prabhu

... Petitioners

Vs.

S.Sasikumar

... Respondent

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the private complaint vide Cr.M.P.No.1691 of 2020 on the file of the learned Judicial Magistrate, Ottanchattram, Dindigul District and subsequently, quash the same as illegal and devoid of merits.

For Petitioners : Mr.S.Palani Velayutham

O R D E R

Heard, the learned counsel appearing for the petitioners.

2.This Criminal Original Petition has been filed for quashing the impugned private complaint filed by the respondent herein.

3.The case of the respondent is that two lorries one belonging to him and the other belonging to his brother-in-law bearing Registration Nos.TN 57 BF 5095 and TN 52 B 5700 parked behind the petrol bunk of the second petitioner herein, were found missing. The petitioners are accused are having stolen the lorries. In this regard, the private complaint was lodged on 26.08.2020. In the mean while, Crime No.2103 of 2020 came to be registered on the file of Ottanchattram Police Station for the offence punishable under Section 379 IPC., in respect of the very same theft. The defacto complainant in the said First Information Report is none other than the respondent herein. According to the petitioner's counsel, the First Information Report is still pending investigation.

4. I am able to notice that the subject matter of the private complaint as well as the subject matter of the First Information Report are one and the same. Therefore, in my view the appropriate provision to be invoked will be Section 210 of Criminal Procedure Code.

5. Section 210 of Criminal Procedure Code reads as follows :



complaint case and police investigation in respect of the same offence

(1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation.

(2) If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code.

6. The petitioners are given liberty to move the jurisdictional Court by filing a petition under Section 210 (1) of Cr.P.C., the learned Judicial Magistrate shall of-course stay the proceedings and call for report from the Jurisdictional Police, who is conducting the investigation and thereafter, deal with the matter in accordance with law.

7. With this liberty to the petitioners and direction to the Court below, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed. I make it clear that I have not gone into the merits of the matter. The other rights of the petitioners are left fully open.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

1.The Judicial Magistrate,
Ottanchattram.

2.The Sub Inspector of Police,
Ottanchattram Police Station.

Crl.O.P(MD)No.10557 of 2020
05.10.2020

SR(CO)
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