



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2020

**CORAM:**

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

**CRL.O.P. (MD)No.10349 of 2016**

**and**

**Cr1.M.P. (MD) .No.5133 of 2016**

WEB COPY

1.M.Pandiarajan : Petitioner / Accused No.1

-Vs-

1. State represented by  
the Inspector of Police,  
Thirumangalam Town Police Station,  
Thirumangalam Taluk,  
Madurai District. : Respondent / Complainant

2.M.Nagarajan : Respondent / De facto Complainant

**PRAYER:** Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the First Information Report in Crime No.681 of 2011, on the file of the first respondent Police and quash the same as so far as the petitioner is concerned.

For Petitioner : Mr.D.Selvanayagam

For R-1 : Mr.K.Suyambulinga Bharathi  
Government Advocate (Criminal side)

For R-2 : No Appearance

**O R D E R**

The petitioner herein is Accused No.1 in Crime No.681 of 2011, on the file of the Inspector of Police, Thirumangalam Town Police Station, Thirumangalam Taluk, Madurai District. The complaint against the petitioner herein is that he being the son of second wife of Murugaiah, who worked and retired from the Animal Husbandry Department, has forged the signature of the *de facto* complainant / his brother, who is the issue born to the first wife of Murugaiah and received a sum of Rs.54,000/- of the retirement benefit payable to the *de facto* complainant. Besides, there is also other allegation saying that the entire retirement benefits of Murugaiah, was paid to the accused persons, without taking note of the other legal heirs born through the first wife of Murugaiah. In this regard there was a Writ Petition filed by the second respondent / *de facto* complainant, wherein, this Court has made the following



observations:-

"7. The only grievance of the petitioner is that though he is one of the legal heirs of the deceased employee, he is not given his share in the terminal benefits. Already a Civil Suit filed by him said to have ended in his favour. If that be the position, the respondents 1 to 3 ought to have considered his claim and disbursed his due share in the counter affidavit that a part of the terminal benefits had already been disbursed to the fourth respondent, it is for the petitioner to work out his remedy by filing appropriate civil proceedings against the fourth respondent to claim his due share out of the amount so disbursed by the third respondent to the fourth respondent since the nomination of her name would mean that she is to act only as the trustee of the estate of the deceased and not as a sole beneficiary. Insofar as the remaining amount of Rs.61,479/- is concerned, which is yet to be disbursed, the third respondent is directed to consider the petitioner's claim in the presence of all the claimants, namely, the legal heirs of the deceased employee and pass suitable orders thereon. For the said purpose, the petitioner is directed to make a detailed representation by furnishing a copy of the decree passed by the competent Civil Court within a period of three weeks from the date of receipt of a copy of this order and on receipt of such representation from the petitioner, the third respondent shall pass appropriate orders on merits and in accordance with law within a period of four weeks thereafter. It is further made clear that in view of the interim order passed by this Court, the third respondent shall not disburse the amount till an order is passed on the petitioner's representation. "

2. The learned counsel appearing for the petitioner would submit that there was a Civil Suit filed by the *de facto* complainant in respect of the immovable property left by Murugaiah and there is no claim over his retirement benefit in the said suit, even that suit was dismissed after trial. Since there is no material to prove that the petitioner has forged the signature to receive a sum of Rs.54,000/- from the employer of Murugaiah, the First Information Report has to be quashed.

3. It is time and again held by the Hon'ble Supreme Court that the First Information Report cannot be quashed for asking unless and until there is no iota of material for investigation. As far as this case is concerned, there is a specific allegation that Rs.54,000/- was received by the accused persons by forging the signature of the *de facto* complainant, whether, there was any forgery committed or not, it is the matter for investigation. Hence, the said First Information Report cannot be quashed. It is



open to the petitioner herein to participate in the enquiry to prove their innocence and if they are innocents, the respondent Police will close the complaint as "Mistake of Fact" or otherwise they will proceed with the investigation in accordance with law.

**4.** In view of the above, the Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

To

- 1.The Inspector of Police,  
Thirumangalam Town Police Station,  
Thirumangalam Taluk,  
Madurai District.
- 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

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**03.03.2020**

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