

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.02.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P Nos.1235, 1236 & 1237 of 2017  
and Crl.M.P Nos.887, 888, 889, 890, 891 & 892 of 2017

1.M/s.Movements Digital India Private Ltd.,  
Rep. by its Director,  
Ambika Bharathimohan,  
No.51/52, 4<sup>th</sup> Floor, Real Tower,  
Royapettah High Road, Mylapore,  
Chennai.

2. Mrs.Ambika Bharathimohan

3. Mr.Duraiswamy Bharathimohan

4. Mr.Karuppannagounder Duraiswamy

5. Mrs.Doraiswamy Jagadambal ...Petitioners  
in all Crl.O.Ps

vs.

M/s.Raj Television Network Ltd.,  
Represented by its Admin Manager Mr.Suresh  
No.32, Poes Road, 2<sup>nd</sup> Street, Teynampet,  
Chennai - 600 018.

... Respondent  
in all Crl.O.Ps

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure, to call the records in C.C.Nos.2198, 2199 and 2200 of 2016 respectively on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai and quash the same against the petitioners and thus render justice.

For Petitioners: Mr.S.Janarthanam in all Crl Ops.

For Respondent : Mr.P.K.Shrinivasan in all Crl Ops.

## ORDER

These petitions have been filed seeking to quash the proceedings in C.C.Nos.2198, 2199 and 2200 of 2016 pending on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai.

2.The respondent has given a complaint against the petitioners for offences under Sections 51,63,66 & 69 of Copyright Act, 1957. The complaint has been given by the respondent on the ground that they are the exclusive copyright holder of the cinematography of tamil films Minnale, Roja and Ravanaan and for assignment of the satellite television broadcast rights after payment of valid consideration. According to the respondent, a TV channel "Tune 6" had telecasted songs in their channel pertaining to these movies on many occasions. The telecast was made without any rights and thereby, the same has infringed the copyright of the respondent. The Court below has taken cognizance of the complaint and has issued process to the petitioners under Section 204 of Cr.P.C.

3.The petitioners have approached this Court by raising two grounds. The first ground raised by the petitioners is that they do not own the TV channel "Tune 6" and they have been unnecessarily shown as accused persons before the Court below in the complaint given by the respondent. The 2<sup>nd</sup> ground raised by the petitioners is that the Court below has taken cognizance of the complaint without any application of mind and even without verifying as to who is the actual owner of the television channel "Tune 6".

4.When the matter came up for hearing on 09.02.2021, this Court passed the following order:

The only issue that has been raised by the learned counsel for the petitioners is that the petitioners do not have anything to-do with the channel Tune-6. According to the petitioners, this channel is owned by RKM News and Entertainment Channel Private Limited. The learned counsel further submitted that not a single document was filed before the Court below to establish the link between the petitioners and Tune-6 and the Court below has mechanically taken cognizance of the complaint.

2. The learned counsel for the respondent seeks for some more time to clarify the issue raised on the side of the petitioner.

3. Post these cases finally on 16.02.2021.

5. When the matter was taken up for hearing today, the learned counsel for the respondent produced certain documents to substantiate the fact that it is the Movements Digital India Private Limited which is owning the television channel "Tune 6 Music". The documents produced by the learned counsel for the respondent pertain to the documents that were collected from the website.

6. A reading of the complaint filed by the respondent contains averments to the effect that the petitioners are owning the television channel "Tune 6". To substantiate this claim made in the complaint, no supporting documents were filed along with the complaint. The complaint contained only the Board resolution, agreement through which the assignment rights were given to the respondent and the recorded CD pertaining to the songs that were telecasted by "Tune 6". These documents do not in any way even prima facie establish that the petitioners are the owners of the channel "Tune 6".

7. Per Contra, the learned counsel for the petitioners has placed reliance upon the communication of the Department of Telecommunication, New Delhi which shows that "Tune 6" was originally owned by "RKM GOLD".

8. Taking cognizance of the complaint involves application of mind and it is not a mechanical process since, it touches upon the liberty of the accused persons. The Court below while taking cognizance of the complaint, at the minimum should have satisfied itself with regard to the connection between the petitioners and the television channel "Tune 6". The Court below should have insisted for some documents and thereafter, satisfied itself before taking cognizance of the complaint. Even this minimum effort has not been taken by the Court below and the Court below has taken cognizance without application of mind.

9. In view of the above discussion, this Court has to necessarily interfere with the cognizance taken by the Court below in all the three complaints and accordingly the same is set aside. The matter is remanded back to the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai and the Court below is directed to apply its mind on the materials placed by the respondent and thereafter, take a decision on taking cognizance of the complaint. It is left open to the respondent to submit necessary documents to prove the ownership of the channel "Tune 6". It is important that the Court below ultimately proceeds against the right persons for the alleged offence committed by the television channel and persons who may not have anything to do with the offences should not have to go

through the ordeal of trial. This Court has to ensure the same in exercise of its jurisdiction under Section 482 Cr.P.C.

9. These criminal original petitions are allowed with the above directions. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssr  
To

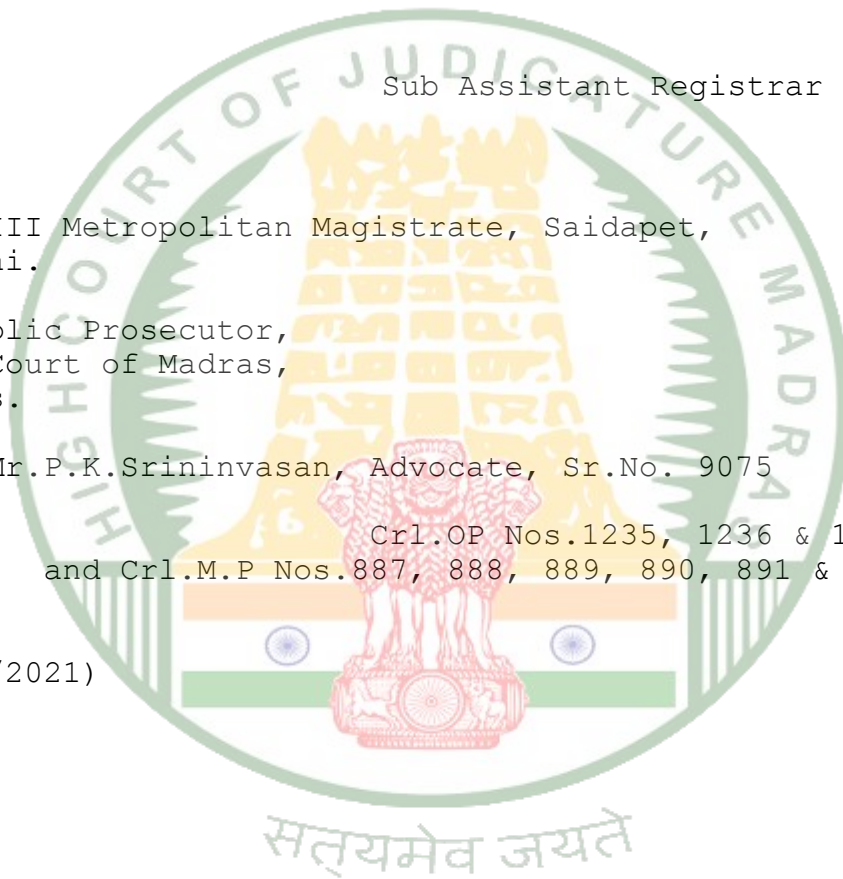
1. The XVIII Metropolitan Magistrate, Saidapet,  
Chennai.

2. The Public Prosecutor,  
High Court of Madras,  
Madras.

+3ccs to Mr.P.K.Srinivasan, Advocate, Sr.No. 9075

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JPII(CO)  
RMP(09/03/2021)



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