



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.04.2021

CORAM :

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THE HONOURABLE **Mr. JUSTICE G.ILANGO VAN**

Crl.O.P.(MD).No.6194 of 2021

1. Ravichandran

2. Sivakumar

... Petitioners

Vs.

1. The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

2. The Deputy Superintendent of Police,
Virudhunagar,
Virudhunagar District.

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

4. K.Narayanasamy

... Respondents

Prayer : Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the respondents 1 to 3 herein not to interfere with the commercial transaction between the petitioner and the fourth respondent under the guise of enquiry based on the complaint given by the fourth respondent against the petitioners.

For Petitioner

: Mr.G.Gomathi Sankar

For Respondents

: Mr.K.Suyambuliga Bharathi,
Government Advocate (Crl.Side)
For R1 to R3.

ORDER

This Criminal Original Petition has been filed seeking a direction to the respondents 1 to 3 herein not to interfere with the commercial transaction between the petitioners and the fourth respondent under the guise of enquiry based on the complaint given by the fourth respondent against the petitioners.

2. The case of the petitioners is that they are doing export

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business in Elayerampannai village, Virudhunagar District and they are also doing Matches business for more than 60 years without any remarks and the petitioners are familiar in the locality. The petitioners are purchasing the raw materials from the fourth respondent, viz., Lion papers Boards limited for more than 10 years and the petitioners are paying the cost of the materials regularly to the fourth respondent herein without any due. They are also doing export of matches to various countries viz., Uganda, Africa regularly without any dispute. After spread of the Covid-19, the petitioners could not pay the cost of the materials to the fourth respondent, since the export business fell down. Further, due to pandemic, they could also not able to export the matches worth about Rs.1.50 crores to the said Countries, due to which, the bill amount was not yet settled by the purchasers, since the materials supplied by the fourth respondent are not good quality. Therefore, the petitioners could not pay the amount to the fourth respondent, but they are purchasing materials continuously from the fourth respondent herein till March 2021. Subsequently, the fourth respondent increased the rate of materials based on the due payable by the petitioners. Hence, the petitioners have stopped the purchase of materials from the fourth respondent, however, they have promised to clear the due amount within a short period. But the fourth respondent, without considering the promise given by the petitioners, have given a complaint before the second respondent in order to wreck vengeance. The complaint was forwarded to the third respondent, based upon which, they have issued a summon to the petitioners dated 20.02.2021. On receipt of the same, the petitioners appeared before the third respondent police for enquiry and after negotiations, the matter was settled between the petitioners and the fourth respondent herein. The petitioners were given six months time to settle the entire amount and it was agreed by the fourth respondent herein. Under these circumstances, the petition was closed, and after closure of complaint, now the fourth respondent insisting the third respondent to recover the amount from the petitioners. Hence, the third respondent is torturing the petitioners to pay the entire amount to the fourth respondent immediately, but the petitioners could not pay the entire amount immediately. Therefore, the third respondent called the petitioners each and every day to attend the enquiry, due to which, the petitioner could not do their regular business. Hence, the petitioner has approached this court by way of filing a petition Crl.OP(MD).No.3747 of 2021, seeking a similar direction along with one Sivakumar and it was allowed by this court by an order dated 11.03.2021 with a direction to the respondent police to follow the guidelines issued **in the case of D.K.Basu Vs State of West Bengal reported in AIR (1997) SC 610.**

3. As per Order passed by this Court in Crl.OP(MD).No.3747 of 2021 dated 11.03.2021, the third respondent herein issued summon to the petitioners calling upon them to appear



before the third respondent on 09.04.2021 for enquiry, as such the petitioners appeared before the third respondent Police dated 09.04.2021 for enquiry and they have given statement that the petitioners will settle the matter after disposing of the property belongs to petitioners and it was agreed by the fourth respondent. Based on that the time was given to the petitioners to settle the amount to the fourth respondent and enquiry was closed. After that, the third respondent called the petitioners each and every day to attend the enquiry and the petitioners were insisted by the third respondent to pay the entire amount immediately. Even the petitioners paid the sum of Rs.1,00,000/- to the fourth respondent dated 11.03.2021 and it was not considered by the third respondent and he is insisting the petitioners each and every day to pay the entire amount to the fourth respondent. The third respondent is not having any jurisdiction to interfere with the commercial transaction between the petitioners and fourth respondent herein. Even the petitioners given statement that they are not able to pay the entire amount immediately and they can settle the amount after disposing of their immovable property, it was not considered by the fourth respondent and now, at the instance of the fourth respondent, the respondents 1 to 3 are harassing the petitioners each and every day. Because of harassment made by the respondents 1 to 3, the petitioner could not do their regular work and they are put into mental torture. Since it is a business transaction between the petitioners and the fourth respondent herein, there is no criminal offence made out by the petitioners as alleged in the complaint filed by the fourth respondent. If at all, the fourth respondent is having any difficulty to recover the amount from the petitioners, he would have filed a Civil Suit against the petitioners for recovery of money. Therefore, it is case of purely a contractual dispute between the petitioners and fourth respondent, the respondents 1 to 3 are not having any roll to insist the petitioners to pay the entire amount immediately. Hence, he has filed the present petition.

4. The learned Public Prosecutor appearing for respondents 1 to 3 would submit that the third respondent herein approached the learned Judicial Magistrate-II, Virudhunagar, by way of filing a petition under Section 156(3) of Cr.P.C seeking a direction to the District Crime Branch to register F.I.R for his complaint. A direction has been given by the learned judge on 19.04.2021, based upon which, the enquiry is underway and accordingly, the learned Public Prosecutor registered the case against the petitioner.

5. In the said circumstances, in view of the direction issued by the learned Magistrate to investigate and conduct enquiry, the petitioner is directed to appear before the Investigation Officer. Since already a direction has been given by this Court in Crl.OP (MD).No.3747 of 2021, no further direction in this petition is necessary. The direction as already given shall be followed by the police in the event of future action, if taken.



6. With these direction, this Criminal Original Petition stands disposed of.

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Sd/-

Assistant Registrar (CS II)

/ /2021

Sub Assistant Registrar(CS)

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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 Superintendent of Police,
Virudhunagar District,
Virudhunagar.
2. The Deputy Superintendent of Police,
Virudhunagar,
Virudhunagar District.
3. The Inspector of Police,
District Crime Branch,
Virudhunagar,
Virudhunagar District.

+1 CC to M/s.G.GOMATHI SANKAR, Advocate (SR-18188[F] dated
30/04/2021)

Crl.O.P.(MD)No.6194 of 2021
30.04.2021

MGJ(12.08.2021) 4P 5C