



CrI.O.P.No.18576 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :24.11.2022

Pronounced on :06.12.2022

Coram:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

CrI.O.P.No.18576 of 2019

Miss J.Vijayakumari

.. Petitioner

/versus/

1.The State rep.by:-  
The Inspector of Police,  
E-8, Kelambakkam Police Station,  
Kancheepuram District.  
(Crime No.250/2019)

2.Mr.D.Senthilvelan

(R2 is impleaded as per order in  
CrI.M.P.No.9967/2019 in  
CrI.O.P.No.18576 of 2019  
dated 23.07.2019)

..Respondents



CrI.O.P.No.18576 of 2019

WEB COPY

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records in Crime No.250 of 2019 on the file of the respondent and quash the same as against the petitioner.

For Petitioner :Mr.N.Prabhakaran

For Respondents :Mr.N.S.Suganthan,  
Government Advocate (CrI.Side)for R1

Mr.K.T.Sankar Subramaniam for  
Mr.S.Namasivayam for R2

-----

### ORDER

This Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code to quash the complaint given by one Senthilvelan, the second respondent herein.

2. The said complaint has been registered and taken up for investigation, pursuant to the direction given by the learned Judicial Magistrate No.1, Chengalpattu, vide order dated 06.05.2019. To be noted that earlier complaint given by the said Senthilvelan for the very same

*Page No.2/13*



CrI.O.P.No.18576 of 2019

allegation, the first respondent police has investigated and it was closed as “civil in nature”. Thereafter, the said complaint has been presented before the learned Judicial Magistrate, Chengalpattu under Section 156(3) of Cr.P.C and the learned Judicial Magistrate, on perusing the records directed the first respondent police to investigate the issue and report in time.

3. The allegation as found in the complaint is that, the defacto complainant on the request of the first accused Gunaratnam on 27.06.2018 invested about Rs.31,10,000/- in the firm run by the first accused Gunaratnam, a citizen of Malaysia. The said first accused Gunaratnam, promised him to establish a partnership firm in the name of JGGR Innovative within a period of 30 days. Accordingly, the complainant entered into an agreement with Gunaratnam on 02.07.2018. Prior to that, the first accused Gunaratnam entered into the agreement with the petitioner herein, who is the owner of the building, in which JGGR Innovative was functioning. As per the agreement between the defacto complainant and Gunaratnam, the machineries worth about Rs.40 lakhs installed in the



CrI.O.P.No.18576 of 2019

WEB COPY

premises of the petitioner has been transferred to the partnership firm by name JGGR Innovative. While so, in in the course of the partnership business without any intimation Gunaratnam left to Malaysia abandoning the partnership business and the properties worth Rs.53,80,575.26 in the premises of the petitioner. Taking advantage of this, the petitioner has disconnected the service connection on 09.04.2019, locked the premises and evicted the employees who were working inside the premises. The properties of the partnership firm is still lying in the premises. Regarding forcible eviction and unlawful disconnection of electricity, the complainant reported the matter to the respondent police and receipt in C.S.R.No.354 of 2019 was issued to him but no action taken by the police, in spite of giving CCTV footage to prove the allegation and for proper investigation. Alleging that the petitioner (landlady) and Gunaratnam (his partner) had colluded together, deprived his right in the partnership firm, locked the premises and also disconnected the service connection, the complaint under Section 156(3) Cr.P.C, has been given to the learned Magistrate.



CrI.O.P.No.18576 of 2019

WEB COPY

4. The learned Judicial Magistrate after perusing the records and CCTV footage in exercise of power under Section 156(3) of Cr.P.C., directed the first respondent police to register the case and investigate the matter.

5. The learned counsel appearing for the petitioner (landlady) who is shown as second accused in the complaint submitted that the petitioner's premises was let out to one Gunaratnam, the Director of M/s Dynamic Winners Divine Products Private Limited. The said Gunaratnam was a lessee in the premises since 2011. There is no privity of contract between the petitioner and the complainant herein. The lease was renewed time to time. On 01.07.2018 the lease was renewed for a period of 11 months with Gunaratnam. Thereafter it appears that Gunaratnam has entered into a partnership firm with Senthilvelan, the defacto complainant and inducted him as a partner of M/s JGGR Innovative. This partnership deed has been entered between the first accused Gunaratnam and the complainant Senthilvelan subsequent to the renewal of lease for a period of



CrI.O.P.No.18576 of 2019

WEB COPY

11 months. The agreement between the first accused and the defacto complainant is without consent or knowledge of the petitioner. The tenancy not attorned in favour of the partnership firm. Though Gunaratnam informed that the rent will be paid from the account of M/s JGGR Innovative, for 8 months there was default in paying the rent and also she got information that some unlawful activities going on in her premises which is presently occupied by North Indians. When she and her son went on 09.04.2019 to verify the premises, they threatened her with dire consequences. Hence, the complaint in C.S.R.No.355 of 2019 at E8 Kelambakkam Police Station was lodged.

6. In such circumstances, Senthilvelan, the defacto complainant, who is no way connected with the premises has given the false complaint to the Police and in this connection, the Police enquired all the parties concerned and after getting opinion of the Public Prosecutor, the complaint was closed as “civil in nature”.



Crl.O.P.No.18576 of 2019

WEB COPY

7. The learned Government Advocate (Crl.Side) submitted that the complainant herein has initiated a civil suit in O.S.No.33 of 2022 seeking mandatory injunction against this petitioner for removal of the machinery in the premises of the petitioner. Except claiming himself as a partner in M/s JGGR Innovative, the defacto complainant has no other documents to show that he was permitted to occupy the premises or machineries found in the premises owned by him or he paying any rent to the landlady/petitioner to establish the privity of contract.

8. Be that as it may. Having resorted to civil Court the criminal complaint, by a person who admittedly became a partner to the firm which is not the lease agreement holder, clearly shows that it is an abuse of law. To settle the civil dispute between the defacto complainant and his partner, the petitioner who is the landlady is roped as one of the accused alleging she in connivance with the first accused trying to cheat the defacto complainant.



CrI.O.P.No.18576 of 2019

WEB COPY

9. The learned counsel appearing for the petitioner referred the affidavit of the complainant filed in his support in the Arbitration proceedings wherein it is admitted that his partner Gunaratnam has handed over the key to the landlady/petitioner herein, during the month of April 2018.

10. Per contra, the learned counsel appearing for the second respondent submitted that the company Master Data of M/s Pudupakkam Cottage Works Private Limited in which the petitioner is the Director and Construction Agreement entered between this petitioner and the first accused Gunaratnam would show that the first accused is not an alien to the petitioner or to the premises. The Memorandum of Understanding between the first accused and the complainant sufficient to establish that the complainant has right and interest in the partnership firm by name M/s JGGR Innovative. The CCTV footage perused by the learned Judicial Magistrate discloses the fact that the power connection to the premises was disconnected and the occupants were forcibly evicted. Still the machineries



CrI.O.P.No.18576 of 2019

WEB COPY

of Partnership firm are laying in the premises. While so, for forcible eviction without following due process of law, the petitioner is liable to be prosecuted. Several lakhs of rupees has been cheated by the first accused Gunaratnam in connivance with the petitioner, the second respondent's complaint which has made out *prima facie* case has to be investigated and cannot be quashed without investigation.

11. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the first respondent and the learned counsel appearing for the second respondent. Documents relied on by either side perused.

12. The specific allegation found in the complaint is that the premises let out by the petitioner herein is now under lock and key without service connection and the properties of the partnership firm are inside the premises. The complainant claims that the properties belong to him as one of the partners of M/s JGGR Innovative. But as per the records, the



CrI.O.P.No.18576 of 2019

WEB COPY

premises was let out to one M/s Dynamic Winners Divine Products Private Limited represented by its Director Gunaratnam as early as 11<sup>th</sup> March 2013. Subsequently, on 18<sup>th</sup> July 2018, lease has been renewed in the name of M/s JGGR Innovative represented by its Director Gunaratnam. The defacto complainant herein has been inducted as a partner in M/s JGGR Innovative. On 02.07.2018 i.e. the day next to the renewal of the lease by the Gunaratnam with the petitioner herein. When the petitioner entered into the lease agreement with Gunaratnam as Director of M/s JGGR Innovative, the defacto complainant not a partner of the firm and there was no partnership firm in existence on the date of the landlady entered into the agreement with Gunaratnam. It is the case of the petitioner that Gunaratnam on his own has handed over the key, since he was not able to pay the rent for the premises for more than 8 months and on some other issues relating to the newly inducted the partner. As a landlady the petitioner herein is entitled for the agreed rent and also the premises cannot be used for any other purpose other than the purpose it was leased out. The defacto complainant herein though claims right to occupy the premises as the partner of M/s JGGR Innovative,



CrI.O.P.No.18576 of 2019

which is not the contracting party with the petitioner, as per the deed dated 01.07.2018, he is also not ready to pay the rent for the use and occupation of the premises. To remove the machineries inside the premises, he has already filed the suit in O.S.No.33 of 2022 on the file of the District Munsif Court, Chengalpattu. While so, without any *prime facie* materials to show by locking the premises the petitioner/landlady has cheated him, the present complaint is filed. The police has conducted thorough investigation and closed it as “civil dispute”. The learned Judicial Magistrate without ascertaining the fact that whether the defacto complainant has any privity of contract with the petitioner, has directed to investigate the complaint again.

13. In the opinion of this Court, the complaint which has already been investigated and closed as “civil in nature” need not be re-investigated again. More particularly, when the complainant himself has rightly resorted to civil remedy against the landlady in O.S.No.33 of 2022 and Arbitration proceedings between the partners is pending. When an appropriate civil remedy against appropriate person has already been initiated, criminal



CrI.O.P.No.18576 of 2019

prosecution would tantamount to harassment and attempt to the convert civil dispute by giving a criminal colour.

14. For the aforesaid reasons, **this Criminal Original Petition is allowed.** The complaint in Crime No.250 of 2019 on the file of the first respondent is hereby quashed.

06.12.2022

Index:yes/no  
speaking order/non speaking order  
ari

To :

1.The Inspector of Police, E-8, Kelambakkam Police Station,  
Kancheepuram District.

2.The Public Prosecutor, High Court, Madras.



WEB COPY



Crl.O.P.No.18576 of 2019

**DR.G.JAYACHANDRAN,J.**

ari

Delivery Order made in  
**Crl.O.P.No.18576 of 2019**

**06.12.2022**