



Crl.O.P.No.26599 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.26599 of 2017 and
Crl.M.P.No.15295 of 2017

Premalatha

... Petitioner

Vs.

1.The Sub-Inspector of Police,
M3, Puzhal Police Station,
Chennai – 600 066.

2.Pramod Kumar Gupta

3.Saroj Gupta

... Respondents

[R2 & R3 impleaded as per the order
of this Court, dated 28.03.2018 made
in Crl.M.P.No.15889 of 2017 in
Crl.O.P.No.26599 of 2017.]

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the proceedings in C.C.No.620 of 2014 on the file of the Judicial Magistrate at Thiruvottiyur and quash the same.

For Petitioner	:	Mrs.Premalatha, Party-in-Person
For R1	:	Mr.L.Baskaran, Government Advocate (Crl. Side)
For R2	:	M/s.J.Sasilie



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.620 of 2014, on the file of the Judicial Magistrate Court, Thiruvottiyur.

2.The gist of the case is that the petitioner/A party was doing real estate business and the respondents 2 and 3/B party used to provide particulars to the petitioner about the properties for sale under commission. In this connection, on 18.09.2011, the respondents 2 and 3/B party went to the house of the petitioner/A party and demanded the commission amount with regard to the property identified by them at Door No.2/48, Thirumal Nagar, Kannappasamy Nagar First Main Street, Puzhal Village, New Madhavaram Taluk, Thiruvallur District, since the petitioner purchased the property identified by the respondents 2 and 3/B party from one P.Palchamy, vide document No.8366 of 2011, dated 10.08.2022 and failed to pay the commission amount. Due to which, there was exchange of heated words, which leads to scuffle and both A and B parties sustained injuries and they got treatment at Government Stanley Hospital, Chennai.



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The respondent Police, on receipt of the complaint, from both A and B parties, registered a case in Crime No.609 of 2011, for offence under Section 160 of IPC, recorded the statement of witnesses, collected the documents and filed the final report before the learned Judicial Magistrate, Thiruvottiyur in C.C.No.620 of 2014.

3.During trial, the respondents 2 and 3/B party appeared before the learned Judicial Magistrate, Thiruvottiyur, admitted the offence, pleaded guilty and thereby, paid the fine amount. The petitioner/A party, aggrieved over the filing of final report, filed the above Quash Petition.

4.The petitioner appeared in person and submitted that on receipt of the summon from the trial Court on 17.09.2014, both A and B parties appeared on 15.11.2014 and the learned Magistrate enquired both the parties whether they were willing for compromise. The petitioner/A party was not willing for any compromise and she wanted the aggressor/assailants/respondents 2 and 3 to be punished. The respondent 2 and 3/B party on 05.11.2014 admitted the offence and paid the fine of



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Rs.100/-, which proves that they are the aggressors, who admitted the offence. She further submitted that the petitioner/A party was assaulted by the respondents 2 and 3/B party, who are husband and wife. LW1-Kumar, Real Estate Broker, LW2-Ramasamy, petty shop owner near the house of the petitioner, LW3-Muthu Krishnan, Plumber and LW4-Shanthakumar have stated about the fight between A and B parties and also sustaining injuries by them. LW5 and LW6 are the real estate brokers, who dealt with the property identified by the respondents 2 and 3/B party. LW7 and LW8 are the Casualty Doctors, who treated B party after the alleged occurrence. The Doctor who had treated the petitioner/A party was not examined by the prosecution, but the medical records namely the Accident Register and the Doctor's opinion collected, which confirms that the petitioner/A party was assaulted by two known persons with stone on 18.09.2011 at about 12.30 p.m.

5.She further submitted that according to the prosecution, the occurrence took place inside the house of the petitioner/A party and she was seriously injured. In such circumstances, there is no question of



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invoking Section 160 of IPC and no fight took place in public place. In this case, the charge sheet filed on 01.02.2014 for the occurrence which took place on 18.09.2011, which is two years four months delay, which is beyond the period of limitation under Section 468 of Cr.P.C. Hence, she prayed for quashing of the proceedings pending in C.C.No.620 of 2014.

6.The learned Government Advocate (Crl. Side) appearing for the 1st respondent Police submitted that the petitioner/A party was doing the real estate business and the respondents 2 and 3/B party are real estate brokers, who used to identify property for sale to the petitioner under commission. Initially, the 2nd respondent identified property to the petitioner situated at Door No.2/48, Thirumal Nagar, Kannappasamy Nagar First Main Street, Puzhal Village, New Madhavaram Taluk, Thiruvallur District. During the month of January 2011, the petitioner/A party negotiated with one P.Palchamy, who is the owner of the property identified by the 2nd respondent. The deal could not be finalized, then two months later, the petitioner/A party purchased the property from the said P.Palchamy and projected as though the property purchased through LW5



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and LW6 and she paid the commission amount to them and thereby, denied the payment of commission to the respondents 2 and 3/B party. Due to which, there was heated arguments between A and B parties, which lead to scuffle and both parties sustained injuries, took treatment at Government Stanley Hospital, Chennai. Finding that it is a case of affray, the 1st respondent registered the case in Crime No.609 of 2011, concluded the investigation and filed the final report, for offence under Section 160 of IPC before the trial Court.

7.He further submitted that the respondents 2 and 3/B party pleaded guilty, admitted the offence and paid the fine amount of Rs.100/- on 05.11.2014 before the trial Court. The petitioner projecting that the 1st respondent Police did not properly investigate the case, filed the above Quash Petition.

8.The learned counsel for the respondents 2 and 3/B party submitted that it was a dispute for non payment of brokerage fee by the petitioner/A party to the respondents 2 and 3/B party. The respondents 2 and 3/B party



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used to identify property to the petitioner/A party for commission. In this connection, the respondents 2 and 3/B party identified property situated at Door No.2/48, Thirumal Nagar, Kannappasamy Nagar First Main Street, Puzhal Village, New Madhavaram Taluk, Thiruvallur District to the petitioner, but the same was not purchased with initially. Two months thereafter, without knowledge of the respondents/B party, the petitioner/A party approached the house owner of the said property and purchased the same and thereby, denied B party commission. When the same was questioned by the respondents 2 and 3/B party, it was the petitioner, who assaulted the 3rd respondent, wife of the 2nd respondent, due to which both respondents 2 and 3 sustained injuries and got treated at Government Stanley Hospital on 18.09.2011 and discharged on 20.09.2011. On coming to know about the same, the petitioner got herself admitted in the Stanley Government Hospital, Chennai and projected the case as though the respondents 2 and 3 are the aggressors.

9.He further submitted that the petitioner denied the brokerage fee to B party, to justify the same, projected a false case against the



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respondents 2 and 3/B party. Since the respondents 2 and 3/B party are daily wagers, they have not contested the case. Hence, they pleaded guilty, admitted offence and paid the fine amount before the trial Court, which does not confirm that they are aggressors. He further submitted that the respondents 2 and 3/B party have no objection for quashing of the above case against the petitioner.

10.This Court considered the rival submissions and perused the materials available on record.

11.The petitioner/A party and the respondents 2 and 3/B party exchanged blows with regard to dispute in payment of brokerage fee for the property identified by the respondents 2 and 3/B party. It is not in dispute the property, identified by the 2nd respondent, was purchased two months later by the petitioner/A party from one P.Palchamy vide document No.8366 of 2011, dated 10.08.2022. The petitioner's stand is that the property was purchased later and the brokerage fee of Rs.25,000/- was paid to LW5 & LW6. Thus, no payment required to be paid to the



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respondents 2 and 3/B party might not be proper. The 2nd respondent was the person, who initially identified the property, which was purchased later by the petitioner from the said P.Palchamy.

12.The occurrence taken place in public road on 18.09.2011, which is spoken by LW1 to LW4. After heated arguments, there was exchange of blows between both petitioner/A party and respondents 2 and 3/B party, who sustained injuries and took treatment. The Doctors/LW7 and LW8 confirmed simple injuries sustained by both the parties.

13.It is to be seen that the respondents 2 and 3/B party appeared before this Court and informed they have no objection for the above case to be quashed against the petitioner. It is seen the occurrence taken place in the year 2011 and charge sheet filed in the year 2014, for which no reason was given on the side of the prosecution. The payment of fine amount by the respondents 2 and 3/B party would not automatically prove that they are the aggressors as contended by the petitioner/A party. The statement of witnesses confirms that both A and B parties equally involved



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in the abuse and assault.

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14.This Court on considering the nature of the offence and finding inordinate delay in filing final report and considering the fact that the respondents 2 and 3 have no objection to quash the proceedings against the petitioner, this Court is inclined to allow this Quash Petition quashing the proceedings against the petitioner in C.C.No.620 of 2014.

15.In the result, this Criminal Original Petition is allowed and the proceedings in C.C.No.620 of 2014, on the file of the Judicial Magistrate Court, Thiruvottiyur is, hereby, quashed. Consequently, the connected Miscellaneous Petition is closed.

10.11.2022

Index: Yes/No

Internet: Yes/No

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To

1.The Judicial Magistrate Court,
Thiruvottiyur.

2.The Sub-Inspector of Police,



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WEB COPY M3, Puzhal Police Station,
Chennai – 600 066.

3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.
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