



WEB COPY

Crl.O.P. (MD) Nos.1046, 1048, 1053 & 1055 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) Nos.1046, 1048, 1053 & 1055 of 2021

and

Crl.M.P (MD) Nos.472, 473, 475 & 477 of 2021

1.Crl.O.P (MD) No.1046 of 2021:-

Varadharaj ... Petitioner/Accused No.1

Vs.

1.The State through,
The Inspector of Police,
Devathanapatti Police Station,
Theni District.
(Crime No.1505 of 2020). ... 1st Respondent/Complainant

2.P.Raju ... 2nd Respondent/Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records on the file of the first
respondent/complainant in Crime No.1505 of 2020 and quash the same
as illegal as far as the petitioner/accused is concerned.

For Petitioner : Mr.M.A.M.Raja

For R - 1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R - 2 : Mr.P.Ganapathi Subramanian

2.Crl.O.P (MD) No.1048 of 2021:-

Varadharaj ... Petitioner/Accused

Vs.

1.The State through,
The Inspector of Police,
Devathanapatti Police Station,
Theni District.
(Crime No.1508 of 2020). ... 1st Respondent/Complainant

2.P.Raju ... 2nd Respondent/Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records on the file of the first

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respondent/complainant in Crime No.1508 of 2020 and quash the same as illegal as far as the petitioner/accused is concerned.

For Petitioner : Mr.M.A.M.Raja

For R - 1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R - 2 : Mr.P.Ganapathi Subramanian

3.Crl.O.P(MD)No.1053 of 2021:-

1.Varadharaj
2.Muthulakshmi ... Petitioner/Accused Nos.1 & 2

Vs.

1.The State through,
The Inspector of Police,
Devathanapatti Police Station,
Theni District.
(Crime No.1504 of 2020). ... 1st Respondent/Complainant

2.P.Raju ... 2nd Respondent/Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records on the file of the first respondent/complainant in Crime No.1504 of 2020 and quash the same as illegal as far as the petitioner/accused 1 and 2 are concerned.

For Petitioners : Mr.M.A.M.Raja

For R - 1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R - 2 : Mr.P.Ganapathi Subramanian

4.Crl.O.P(MD)No.1055 of 2021:-

Raman ... Petitioner/Accused No.1

Vs.

1.The State through,
The Inspector of Police,
Devathanapatti Police Station,
Theni District.
(Crime No.1512 of 2020). ... 1st Respondent/Complainant

2.P.Raju ... 2nd Respondent/Defacto complainant



Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records on the file of the first respondent/complainant in Crime No.1512 of 2020 and quash the same as illegal as far as the petitioner/accused is concerned.

For Petitioner : Mr.M.A.M.Raja
For R - 1 : Mr.R.M.Anbunithi
Additional Public Prosecutor
For R - 2 : Mr.P.Ganapathi Subramanian

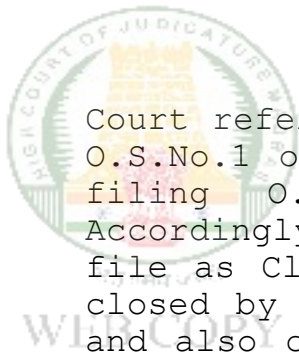
COMMON ORDER

These Criminal Original Petitions have been filed to quash the FIRs in Crime Nos.1505, 1508, 1504 and 1512 of 2020 respectively on the file of the first respondent.

2. Since the issues involved in the petitions are one and the same, all the Criminal Original Petitions were taken up together and disposed of by this common order.

3.Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Criminal Side) appearing for the first respondent and the learned counsel appearing for the second respondent.

4.The case of the second respondent is that one Muthulakshmi, who is arraigned as second petitioner in Cr1.O.P(MD)No.1053 of 2021 and the second respondent had registered partnership business of real estate in the name and style of 'PRV Properties' in the year 2012. Accordingly, the second respondent is the active member and the said Muthulakshmi is a silent partner. However, both of them have invested equally as per the deed of partnership. In the name of partnership firm, properties were purchased for business and sold out into house plots. In the mean while, the second respondent failed to give proper accounts and profits to the said Muthulakshmi. Therefore, she filed a suit in O.S.No.1 of 2016 on the file of the learned District Munsif, Theni as against the second respondent. She also filed another suit in O.S.No.21 of 2017 on the file of the Principal District and Sessions Court, Theni, for declaration declaring that the partnership deed of PRV Properties was dissolved in pursuance of notice, dated 03.03.2017 with effect from the date of receipt of the said notice, namely on 04.03.2017 and for direction directing the second respondent to render the true and proper accounts in respect of the said partnership deed along with other prayers and permanent injunction restraining the second respondent from any way alienating and encumbering the suit property by suppressing the dissolution of partnership deed or by claiming the plaint schedule property as her absolute property. The trial

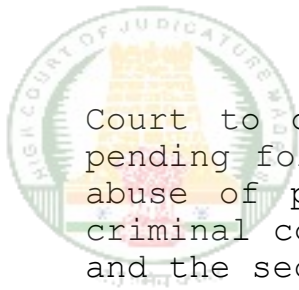


Court referred the matter to the Arbitration and closed the suit in O.S.No.1 of 2016. In the mean while, she approached this Court by filing O.P.No.348 of 2019 for appointment of Arbitrator. Accordingly, arbitrator was appointed and the matter was taken on file as Claim Petition in C.P.No.145 of 2019. Subsequently, it was closed by the arbitrator on 20.03.2020 on the ground of limitation and also concluded that the civil Court is the competent forum to decide the right of the parties.

5.In the said suit in O.S.No.21 of 2017, the said Muthulakshmi also prayed for preliminary decree for partition in respect of allotment of half share in respect of the suit property, after deleting the properties which was already sold out by the second respondent. The said suit is pending on the file of the Principal District and Sessions Court, Theni.

6.In the mean while, one Kumaresan, who is a nephew of the second respondent, lodged a complaint against the said Muthulakshmi. On receipt of the same, F.I.R has been registered in Crime No.224 of 2018 on the file of the first respondent therein. Hence the said Muthulakshmi filed a petition in Crl.O.P(MD)No.5945 of 2019 to quash the F.I.R. This Court by an order, dated 26.04.2019, observed that the defacto complainant is a nephew of the second respondent herein lodged the complaint alleging that the petitioner therein had visited the property and shouted from the road formed in the layout with a view to annoy them. Inasmuch as the property belongs to the firm and inasmuch as there is no injunction against the petitioner therein that she shall not enter the property of the firm, mere pendency of the arbitration does not *ipso facto* make the petitioner a stranger. Therefore the visit of the petitioner to the property owned by the firm cannot *ipso facto* be termed as illegal. It will not constitute an offence within the meaning of Section 447 of I.P.C and quashed the F.I.R registered in Crime No.224 of 2018.

7.The second respondent/defacto complainant also filed a Writ Petition before this Court in W.P(MD)No.6971 of 2020 seeking police protection, thereby indirectly restraining the petitioners from entering into the property. This Court by an order, dated 16.10.2020, directed the civil Court to dispose of the civil suits within the stipulated time and directed the Superintendent of Police, Theni District to conduct enquiry on the complaint lodged by the second respondent by deputing one Deputy Superintendent of Police and complete the same within a period of three months from the date of receipt of the copy of the said order. However, on the subsequent complaints received from the second respondent, the first respondent registered these F.I.Rs' impugned in all the quash petitions for various offences. As observed by this Court in the earlier quash petition, there is absolutely no ingredients to make out the offence under Section 447 of I.P.C as against the petitioners. Further, this Court specifically directed the civil



Court to dispose of the suit filed by the petitioners and it is pending for trial. Therefore, all the F.I.Rs' are nothing but clear abuse of process of law. The second respondent attempted to give criminal colour in the civil dispute pending between the petitioners and the second respondent.

8. In view of the above, the FIRs in Crime Nos.1505, 1508, 1504 and 1512 of 2020 respectively on the file of the first respondent are quashed and the Criminal Original Petitions are allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

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 Inspector of Police,
Devathanapatti Police Station,
Theni District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.O.P (MD) Nos.1046, 1048, 1053 & 1055 of 2021
17.03.2022

RD(1.04.2022) 5P 3C