



WEB COPY

Crl.OP(MD)



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29/04/2022

Pronounced on : 25/08/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)No.6124 of 2019
and
Crl.MP(MD)No.3987 of 2019

Ana.Lakshmanan @ Thanneermalai : Petitioner

Vs.

1.State rep. by
The Inspector of Police (Crime),
Town Police Station,
Devakottai,
Sivagangai District. : R1/Complainant

2.Ana.Somasundaram : R2/De-facto complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the case in Crime No.443 of 2015 on the file of the first respondent police and quash the same.

For Petitioner : Mr.J.Anand Kumar

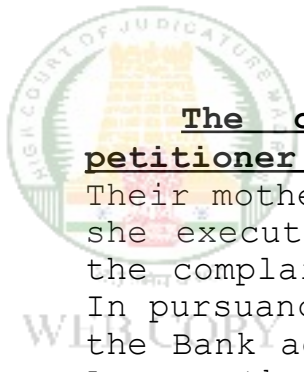
For 1st Respondent : Mr.P.Kottai Chamy
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.M.Pandiyarajan
(No appearance)

O R D E R

This criminal original petition is filed seeking quashment of the FIR in crime No.443 of 2015 on the file of the first respondent.

2.The case of the prosecution in brief:-



The de-facto complainant, who is the brother of the petitioner lodged a complaint with the following allegations:-

Their mother namely Namagiri Achi died, on 21/02/2004. Before that, she executed a Will, on 02/03/1994. By the above said Will, both the complainant as well as the petitioner were given equal shares. In pursuance of the above said Will, after the death of the mother, the Bank account in ICICI Bank was also transferred in their name. As per the above said Will, the account must be operated jointly. Similarly, a new account has also been opened in the ICICI Bank and in that account, the money received by way of rental advance and monthly rental are used to be deposited. But without the consent of the de-facto complainant, the petitioner appears to have withdrawn Rs.58,000/-, on 14/06/2021. Similarly, the locker was found to be opened several times without the consent of the de-facto complainant. On verifying the accounts, it was found that huge money has been misappropriated by the accused persons. Similarly, shares were also transferred in the name of the accused persons. With the above said allegations, he filed the private complaint, upon which, the present case has been registered.

3. Seeking quashment of the same, this petition has been filed by the petitioner.

4. Heard both sides.

5. It appears that as mentioned above, the de-facto complainant and this petitioner are brothers. It is also seen that by way of the Will, that was executed by Namagiri Achi, both inherited the property and as per the recitals made in the above said Will, both must operate the joint account and must also inherit the shares in common.

6. Now the case of the petitioner is that for the purpose of renovating the house, the amount has been withdrawn on the basis of the cheque, that was signed by the de-facto complainant. During that time, the executor of the Will was also present. With regard to gold and silver articles, the other legal heirs already taken the above said articles and the copy was also handed over to the de-facto complainant. With regard to the sale of the shares, that was done during the life of his mother, that money was shared between himself and the second respondent and by utilizing the money, properties were purchased in the name of their respective wives. Similarly, a suit in O.S.No.82 of 2004 was also filed on the file of the District Munsif, Karaikudi. So on the basis of the above said three grounds, quashment of the FIR has been sought.

7. But absolutely, no document, which is sterling in quality and that too accepted by the second respondent has been produced before this court to see or prove that absolutely, there was no *prima facie* case either for registering the case or proceedings



with the investigation. Finding that it is a dispute between brothers, for the purpose of amicable settlement, the matter was referred to the mediation, but it could not succeed for some unknown reasons.

8. Now as things stand today, whether there was any misappropriation of money and whether any sale of shares has been undertaken without the consent of the brother are all the matters for consideration during the course of investigation. Absolutely, I find no merit in this petition to exercise the jurisdiction, even at the initial stage itself to quash the FIR. The investigation must be taken in its logical conclusion and at the appropriate time, the petitioner is at liberty to work out his through appropriate proceedings. I find no reason to entertain this petition at this stage and it is too premature stage to exercise the jurisdiction.

9. In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (C.O)

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/11/2022

Sub Assistant Registrar (CS)

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To,

1. The Inspector of Police (Crime),
Town Police Station,
Devakottai,
Sivagangai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.OP(MD) No. 6124 of 2019
25.08.2022

AMS (03.11.2022) 3P 3C