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Crl.O.P No.538 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **19.01.2023**

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.538 of 2021
and Crl.M.P. Nos.312 & 5222 of 2021

1. Thirumurugan
2. Muthulakshmi
3. Kalaiselvi

... Petitioners

Vs.

1. State rep. by
Inspector of Police,
Perundurai Police Station,
Perundurai, Erode District.

2. K.Rathi

... Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to FIR in Crime NO.92 of 2020 on the file of the Inspector of Police, Perundurai Police Station, Perundurai, Erode District and quash the same.

For Petitioners : Mr.M.Vengatesh

For Respondent 1 : Mr.A.Gopinath
Government Advocate (Crl. Side)

R2 : Mr.K.Krishnan



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Crl.O.P No.538 of 2020

ORDER

This petition has been filed to call for the records relating to FIR in Crime NO.92 of 2020 on the file of the Inspector of Police, Perundurai Police Station, Perundurai, Erode District and quash the same.

2. The petitioners are the accused 1 to 3 respectively. The first accused is the father-in-law of the defacto complainant, the second and third accused are the sisters-in-law of the defacto complainant. The second respondent had given a complaint by alleging that a textile company by name “Yanai Appuchi Sakthi Vinayagar Textiles” was being run by her husband and five others as partnership firm. After the death of defacto complainant's husband, the partners of the firm have sold the power looms of the said textile to one Nallasamy without the knowledge of defacto complainant. When the aggrieved partners along with the defacto complainant went to the company and enquired the petitioners about this, the first petitioner had abused the second respondent and threatened that he would kill her. On the basis of these allegations, a case has been registered against the petitioners in Cr. No.102 of 2020 for the offences punishable under Sections 294(b), 323, 506(2), 420 IPC.



3. The learned counsel for the petitioners submitted that the complaint has been given just to give a criminal colour to a civil dispute between the family members; the third petitioner is a Government servant and he is no way related to the partnership firm; there is no allegation made as against the third petitioner; the second respondent had exaggerated the dispute between the partners and given a criminal case just to grab money.

4. The learned Government Advocate (Crl.side) submitted that the second respondent's husband was one of the partners of the said company; after his death, the power looms were sold in favour of a third party by some of the partners of the firm with an intention to cheat the defacto complainant; since investigation is pending and lot of facts have to be unearthed, the petition to quash the FIR is too premature.

5. The learned counsel for the second respondent submitted that the defacto complainant was cheated by the petitioners and her husband's share in the partnership firm was also affected in view of the sale of the power looms to a third party without the knowledge of the second respondent; since the act on the part of the accused had criminal intention, investigation should be allowed to go.



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6. On perusal of the records it is seen that the petitioner's husband was one of the partners of the said firm. The very allegation of the second respondent is that the power looms of the said company was sold to Nallasamy subsequent to the death of her husband. The said Nallasamy had also given a criminal complaint in Cr.No.102 of 2020 by alleging that the petitioners have refused to deliver the power looms after received the sale consideration from him. It is seen from the above FIR that the said Nallasamy had negotiated to purchase the power looms only with the petitioners.

7. The learned counsel for the petitioners submitted that even according to the partnership agreement, any dispute of this nature should be referred to arbitration and no criminal complaint can be given.

8. On perusal of the complaint it is seen that the second respondent had not only made allegations that the properties of the partnership firm has been sold without her knowledge and the consent of other partners but she had also alleged that she was threatened by the first petitioner and his daughter and they even tried to assault her. Though the records would show



that there is a background for giving this complaint, it appears to be a dispute between the family members with regard to family business run by them. Until the defacto complainant's husband was alive, it is seen that everything went smoothly. After his death, the first petitioner had arranged to sell the power loom to a third party, without the consent of the defacto complainant. When the defacto complainant asked the first petitioner about this, the petitioners have jointly threatened the second respondent.

9. After coming to know that the dispute is between the family members, the matter was earlier referred to mediation. However, no settlement was fructified in mediation. Since the matter appears to be the dispute between the family members and it is because of denial of any share in the partnership firm in respect of the deceased husband of the defacto complainant, I feel there are possibilities that the dispute is only civil in nature. However, such a conclusion cannot be arrived at this stage itself without allowing the first respondent to do a detailed investigation.

10. Since the complainant has been given as early as in the year 2020



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and the dispute is between the family members, I feel it is appropriate to direct the first respondent police to complete the investigation and file a final report within a stipulated time.

11. With the above observations, this Criminal Original Petition is disposed and the first respondent is directed to complete the investigation and final report within a period of three months from the date of receipt of a copy of this order. If it is revealed during the course of investigation that the matter is purely civil in nature, it is obligatory on the part of the first respondent to do the needful in accordance with law. Connected miscellaneous petition is closed.

19.01.2023

Index : Yes/No
Speaking Order : Yes / No
bkn



Crl.O.P No.538 of 2017

To:

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1. Inspector of Police,
Perundurai Police Station,
Perundurai, Erode District.
2. The Public Prosecutor,
Madras High Court.



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R.N.MANJULA, J.,

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