



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2023.

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRL OP No. 33527 of 2019
& CRL OP No. 1169 of 2020

R.Ramkumar ... Petitioner in CRL OP No. 33527 of 2019
1.T.R.Manisekaran
2.Pushpa
3.Senthikumar ...Petitioners in CRL OP No. 1169 of 2020

Vs.

1.The Inspector of Police,
District Crime Branch,
Salem.
(Crime No. 568 of 2015)
2.R.Asaithambi.
...Respondents in both petitions.

PRAYER in CRL OP NO. 33527 of 2019: This petition filed under Section 482 of Cr.P.C, praying to call for the records in S.C No. 74 of 2019 pending on the file of I Additional District Judge, Salem and quash the same.

PRAYER in CRL OP NO. 1169 of 2020: This petition filed under Section 482 of Cr.P.C, praying to call for the records in S.C No. 74 of



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2019 pending on the file of I Additional District Judge, Salem and quash the same.

For Petitioner in both petitions : Mr.N. Senthilkumar
For R1 in both petitions : Mr.R.Murthi.
Government Advocate(Crl.side)
For R2 : Dr.R.Asaithambi
Appeared in person

ORDER

These petitions have been filed to call for the records in S.C No. 74 of 2019 pending on the file of I Additional District Judge, Salem and quash the same.

2. The Petitioners in Crl. OP. No. 1169 of 2020, were arrayed as A1,A2 and A3 in Crime No. 568 of 2015, and the petitioner in Crl. OP. No. 33527 of 2019, was arrayed as A6 in crime No. 348 of 2016, on the file of the first respondent and the final report was filed by the first respondent, which was taken on file in S.C No. 74 of 2019, on the file of the I Additional District Judge, Salem, against which the petitioners herein filed these petitions to call for records and quash the same.



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3.The brief facts of the case are as follows:

The second respondent herein/defecato complainant lodged a complaint before the first respondent on 16.09.2015 stating that the Sago Factory situated at S.No. 62/1 & 2 of Deevattipatty Village, is originally belongs to his father and mother, which was leased out to one Sri Venkateswara Company consisting of four partners, namely T.R.Manisekaran, K.Natesan, N.Senthilkumar and R.Pushpa and the same was due to expired on 30.09.2015. While so, the above parties sub let the said Sago factory to one Manohar and Gowri, who are relatives of the said Manisekaran, which is against the terms of the lease deed. Besides, all of them removed the machineries from the said factory while the defacto complainant and his brother were not in that place. Further they appointed Saidha and Sekar as watchman to look after the said defunct factory but they illegally cut all the trees in the said factory and sold on 19.07.2015. After came to know about the above, the defacto complainant visited the said factory and found that another sub lessee by name United Agro Service factory is making use of his factory anauthorisedly to dry castor seed of their Oil factory by appointing one



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Manimaran as supervisor. Hence the complaint, thereafter FIR was lodged under Section 120(B) 380, 420 of IPC in Crime No. 568 of 2015.

Initially, FIR was lodged against four accused persons, after completion of investigation and the final report was filed against six persons. A6 is the petitioner in CrI.OP No. 33527 of 2019.

4. The learned counsel for the petitioners submitted that defacto complainant lodged a complaint against the accused persons on 16.09.2015 and FIR was registered in Crime No. 568 of 2015. Subsequently, the defacto complainant filed a another complaint on 31.07.2016 against 12 persons, which also numbered as crime No. 348 of 2016 under Section 120(B), 380, 420 of IPC and Section 3(1) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992, as such is clear abuse of process of law since because he lodged two complaint for same set of facts, hence he prayed to quash the criminal proceedings against the petitioners. Further, the defacto complainant filed a suit before the Additional District Judge, No.III, Salem, against the petitioners and others for the relief of damages and other consequential relief based upon the alleged lease agreement entered



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between the petitioners and father of the defacto complainant in the year 1994. Furthermore, they also submitted the list of witness produced by the defacto complainant in the suit which itself shows that there is no such occurrence was happened as alleged by the defacto complaint hence in order to implicate these petitioners the defacto complainant purposefully lodged a criminal complaint. Hence he prays to allow this petition.

5. By way of reply, the second respondent appeared in person submitted that based on his complaint witnesses were examined and the final report was filed by the first respondent which was taken on file by the I Additional District Judge, Salem. Further in his written submissions he narrated the facts about the complaint as well as suit proceedings and other connection between the parties from the year of 1994 till filing of complaint. The contention of the defacto complainant is that, contrary to the terms of the lease agreement entered between his father and A1 to A4, they unauthorisedly sub let the said Sago Factory to third parties and also they are not entitle to mortgage the said factory to get loan with the help of original title deed which they are obtained from Tamil Nadu



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Industrial Investment Corporation (in short "TIIC") after discharging the loan fully. Besides after entire loan to TIIC they have to surrender peaceful possession of the Sago factory with good working condition to the defacto complainant family by getting advance and loan amount Rs. 2,10,000/-. But, before completion of the loan installment they wind up the Sago factory and migrated to education business by taking advantage of the demise of the defacto complainant's father and the defacto complainant's absence in their native these petitioners unauthorizedly let out the the said factory to third party. Currently, one Ram Kumar is in possession of the said factory used as to dry the castor seeds and neem seeds and also used the factory as dry yard and also with the help of watchman they removed the machineries and also cut down the trees. Having come to know all these occurrence he visited the said factory found that machineries were removed and trees were cut down illegally. Hence he lodged the complaint and the final report was filed and also there is no reasonable materials to prosecute the petitioners however they have filed this petition to quash the proceedings as such is not maintainable in law. Hence he prayed to dismiss the petition.



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6. It is an admitted fact that the father of the defacto complainant/second respondent herein was entered into lease agreement with the A1 to A4 on 07.07.1994 in respect of running the said Sago factory along with land in S.A No. 62/1 & 62/2 and also another land S.No. 93/3A, and permitting them to run a Sago factory under the name and style of Sri Venkateswara company along with machineries for a period of 7 years for the rent separately fixed for a land factory. As per the terms of the above said lease agreement the accused persons were permitted to construct godown and machineries for the purpose of said business and after completion of lease period the factory along with land as mentioned in the lease deed bound to hand over to the lessee/defacto complainant's family. Subsequently, with regard to machineries another deed was executed on 08.07.1994 the terms of the said deed is also forming part of the earlier lease agreement for seven years accordingly machineries which mentioned in the schedule of the property are as follows: 1. AEI Motor ship ring- 40 HP- 1., 4 HPMotor, 2. AEI Motor Screw Guage 10 BHP – 1, 3. Black stone iol engine 50 HP-1, 4.



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Peterfielding Oil engine 16 BHP – 1, 5.AEI Motor 5 HP -2, 6.Suguna High speed Monoblock-5HP-1 7. AEI Motor 3 HP -1 8. Meena Weighing Scale -1. The above machineries were installed at the said factory at the time of the lease deed. Thereafter on 21.11.1994 another lease deed was executed between the petitioners and father and mother of the defacto complainant. The defacto complainant and his mother along with minor son Anbalagan executed a **registered** lease deed for 21 years in favour of the petitioners since because against the portion of the property said factory TIIC initiated proceedings for arrears of loan amount based on mortgage made by the defacto complainant's father in the year 1985 but the same was not disclosed by the defacto complainant and his family members to the petitioners after came to know about the said proceedings the Panchayat was held between the said parties wherein the second defendant and his family members executed lease deed for 21 years, as per the lease agreement the petitioners bound to deposit the loan which was borrowed by the second respondent family and they are entitled to receive the title deeds. Secondly, after completion of 21 years, after receiving loan amount from the defacto complainants'



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the petitioners are bound to hand over the property with machineries with good running condition. Hence, from 21.11.1994 for a period of 21 years the defacto complainant family leased out the said factory along with land to the petitioners and the said lease period was ended on 30.09.2015. On perusal of the FIR, the defacto complainant alleged that the petitioners were not running the said factory and sub let it to one Manokar and Gowri Sankar who are relatives of first lessee Manisekaran which is totally against the terms of the lease deed. Further, the said Manokar, Gowri Sankar removed the machineries illegally from the said factory and appointed one Saidha and Sekar as watchman to look after the said defunct factory and were joined together with the petitioners removed the machineries and cut trees sold out on 19.07.2015. When the defacto complainant visited the factory on 23.07.2015 found that one Ram Kumar unauthorisedly used the said factory for the purpose of drying the castor seeds and neem seeds by appointing supervisors. It is also alleged that the said Gowri sankar removed Oil engine Motor starters. Hence the complaint was lodged against the petitioners for cutting the trees and removal of machineries in the said factory. Further



as per the terms of the lease deed between the defacto complainant family and accused the lease period of 21 years ends on 30.09.2015. There is no dispute with regard to the tenure of lease period but before expiry of the said lease period the defacto complainant thrown allegations against the petitioners and others as if they were cut down the trees and removed machineries in the said Sago factory.

7. The learned counsel for the petitioners submitted that there is no trees in the said factory with a view to implicate the petitioners in criminal proceedings the defacto complainant raised the false allegations against them. On perusal of lease deed, wherein in the description of properties it was mentioned that the factory and the machineries along with electricity connection but there is no recitals about the existing of trees in the factory premise. Furthermore, the final report submitted by the first respondent reveals that there is no trees in the factory premises. Furthermore, the statement of the Village Administrative Officer read as follows:

..... தீவட்டிப்பட்டி கிராம பழைய சர்வே எண் 61/2001, புதிய சர்வே எண் 62/1ஏ வில் சுமார் 4.71 ஏக்கர் நிலம் குாந்தையம்மாள் பெயரில் உள்ளது என்றும், அதில் கிழங்கு மில் உள்ளது என்றும் அதில் மரவகைகள் எதுவும் குறிப்பிடப்படவில்லை என்றும் தெரிவித்து அலுவலகத்தில்



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இருந்த ஆவணங்களை பரிசீலனை செய்து 2018ம் ஆண்டுக்கான சிட்டா,பட்டா அடங்கல், ஏப்ளம்பி ஆகியவைகளை சான்றிட்டு வழங்கினேன்.....

8. The above statement of the Village Administrative Officer clearly reveals that that there is no trees in the said factory as alleged by the defacto complainant.

9. Furthermore, as per the allegation of the second respondent those trees cut down by one Maniraj accompanied with others but he he died long back as per the statement one of the witness. Furthermore, as per the certificate of the Tahsildar based on the revenue records in the land pertaining to the lease deed there is existence of the Sago factory along with two wells and electricity motor but there is no mentioning about the tress as alleged by the defacto complainant it prime facie reveals that there is no proof on the side of the defacto complainant to prove that the petitioners cut down the trees from the factory premises.

10. As regards allegation of removal of machineries in the said factory , the defacto complainant alleged that the petitioners removed the machineries illegally from the factory premises but as per the terms of lease deed dated 30.09.2015 the lessee entitled to held the property along



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with machineries till completion of lease period and with regard to existence of machineries another deed was executed between the parties in which it is stated that after completion of lease period the petitioners hand over the machineries to the defacto complainant with working condition more particularly motors related articles in the said factory. If at all any damages caused, as per the terms of the lease agreement after completion of lease period lessor entitled to initiate the legal proceedings before the civil forum for recovery of damages. But before the completion of lease period, the defacto complainant gave a complaint stating that machineries were removed by the petitioners as such is against the terms of the lease deed. Even assuming that machineries were removed by the petitioners the defacto complainant is entitled to initiate legal proceedings against the petitioners and that to after completion of the lease period as rightly pointed by the learned counsel for the petitioners. It is pertinent to mention here that subsequent to the FIR and suit in O.S No.9 of 2019 was filed by the defacto complainant against the petitioners and others which is pending before the District Court, Salem, for the relief of damages and other relief. Apart from the



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civil suit, in the year 2016 for the same set of facts the defacto complainant gave a complaint against these petitioners alleging that they were cut down the trees causing damages of the the said factory from which FIR No.348 of 2016, which reveals that the defacto complainant lodged two complaint for same set of facts.

11. On seeing the entire facts, it reveals that there is no record on the side of the defacto complainant to show that petitioners cut down trees from the said factory and also existence of trees in the said factory but without any basic materials he lodged a complaint against the petitioners for criminal offence as such is clear abuse of process of law.

12. Furthermore, if at all any machineries removed from the factory, as per the terms of lease deed the defacto complainant is entitled to file civil suit. Now, the defacto complainant filed suit proceedings. Furthermore the conduct of the defacto complainant reveals that he gave a two complaint for same set of facts with a view to implicate the petitioners in criminal prosecution. Furthermore, on seeing the entire facts it reveals that the land acquisition proceedings initiated by the National High way authority in which small portion of land along with



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construction was acquired by the High way authority and both the petitioners claimed the award amount from the High Way authority which leads to these criminal proceedings.

13. As discussed above, the petitioners were falsely implicated in this case without any material evidence. Hence, proceedings in S.C No. 74 of 2019 pending on the file of I Additional District Judge, Salem is hereby quashed. Accordingly, these petitions are allowed. No cost. Consequentially connected miscellaneous petitions are closed.

24.08.2023

Index: Yes/No
Speaking Order/Non Speaking Order
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T.V.THAMILSELVI

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To

1. The Inspector of Police,
District Crime Branch,
Salem

2. The Public Prosecutor,
High Court, Madras.

CRL OP No. 33527 of 2019
& CRL OP No. 1169 of 2020

24.08.2023.