



Crl.O.P.No.28732 of 2023 & Crl.M.P.No.20000 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.12.2023

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.28732 of 2023
& Crl.M.P.No.20000 of 2023

Mrs.Solaiammal.

... Petitioner/Accused

/versus/

1. The State Rep. By,
The Inspector of Police,
Sirkazhi Police Station,
Mayiladuthurai District.

... Respondent/Complainant

2. Vasudevan.

... Respondent/defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., pleaded to call for the records to quash the FIR in Crime No.274 of 2022 registered on the file of the respondent police.

For Petitioner : Mr.M.Rajasekaran

For R1 : Mr.Leonard Arul Joseph Selvam.
Government Advocate (Crl.Side)



Crl.O.P.No.28732 of 2023 & Crl.M.P.No.20000 of 2023

ORDER

WEB COPY

This Criminal Original Petition is filed to quash the F.I.R on the ground that, the civil dispute has been given a criminal colour.

2. According to the petitioner, she first entered into a sale agreement with the defacto complainant on 29.09.2019, agreed to purchase the property of the defacto complainant for a sale consideration of Rs.3,50,000/- and paid Rs.3,00,000/- on the date of agreement on 29.03.2019 and for the balance consideration of Rs.50,000/-, two years time was granted for completing the contract. The defacto complainant having failed to perform his part of contract, receiving the balance sale consideration, the petitioner has initiated suit for Specific performance before the Sub Court, Mayiladuthurai in O.S.No.141 f 2022 and the same is pending and thereafter, same has been transferred to Sub Court, Sirkazhi and renumbered as O.S.No.79 of 2022.

3. While fact being so, in order to get rid of the consequence of the specific performance suit, the present complaint is filed alleging that, the petitioner is demanding exorbitant interest and therefore, liable to be prosecuted for the



Crl.O.P.No.28732 of 2023 & Crl.M.P.No.20000 of 2023

offence under Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest

Act. Since it is a malicious complaint, giving criminal colour, the petitioner seeks for quashment citing the parameters laid by the Hon'ble Supreme Court in *Neeharika Case*.

4. The Learned Counsel for the petitioners submitted that having agreed to sell the property and received Rs.3,00,000/-, the defacto complainant has neither performed her part of contract by executing the sale deed receiving the balance sale consideration nor returned the money advanced. Therefore, the suit has already been instituted for Specific Performance or in alternate to return the money with interest.

5. The Learned Government Advocate (Crl.Side) for the respondent states that, the F.I.R dated 22.06.2023 is in respect of incident alleged to have occurred on 13.06.2023, when the defacto complainant knowing about the institution of civil suit against her. At that time, she met Sollaiammal and asked for return of the document, since the sale agreement was only as a security for the loan availed by her. However, the petitioner demanded Rs.7,00,000/- to withdraw



the suit or else to vacate the house and handover the possession. Since there is a material to investigate demand of exorbitant interest, the complaint has been registered and it is under investigation.

6. The Learned Government Advocate (Crl.Side) for the respondent submitted that, apparently it is not mere civil dispute, but the petitioner herein in order to secure the loan amount advanced to the defacto complainant, had created sham and nominal sale agreement and when after discharge of the debt, the petitioner refused to return the document and cancel the registered sale agreement instead demanding Rs.7,00,000/- more.

7. This Court, on perusing the records finds that the terms of contract as found in the agreement for sale *per se* is suspicious and there is element for investigation on the complaint given by the defacto complainant. Therefore, it is not fit case to quash the F.I.R. Further, in the First Information Report, it is also stated that, some audio recording of the petitioner's son, which incriminates the petitioner, is produced before the Court. Since ingredient of cognizance offence is *prima facie* made out. It is not a simple case of civil dispute leading to filing of



Crl.O.P.No.28732 of 2023 & Crl.M.P.No.20000 of 2023

Specific Performance. This Court finds that there is material to investigate cognizance offence.

8. Accordingly, this *Criminal Original Petition is dismissed.*

Consequently, connected Miscellaneous Petition is closed.

22.12.2023

Index :Yes/No.
Internet :Yes/No.
Speaking Order/Non-Speaking Order
bsm

Copy to:-

1. The Inspector of Police,
Sirkazhi Police Station,
Mayiladuthurai District.

2. The Public Prosecutor, High Court, Madras.



WEB COPY



Crl.O.P.No.28732 of 2023 & Crl.M.P.No.20000 of 2023

DR.G.JAYACHANDRAN, J.

bsm

Crl.O.P.No.28732 of 2023
& Crl.M.P.No.20000 of 2023

22.12.2023

Page No.6/6