



WEB COPY

Crl.O.P(MD).No.715 of 2021



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2023

CORAM:

**THE HONOURABLE MR. JUSTICE P. DHANABAL**

Crl.O.P(MD).No.715 of 2021

1.A.R.Sivakumar

2.A.Rajaram

...Petitioners

Vs

1.The State rep. by,  
The Inspector of Police,  
District Crime Branch,  
Virudhunagar District.  
(Crime No.13 of 2020)

2.Sakthivel Raja

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records for the First Information Report in Crime No.13 of 2020 dated 18.12.2020 on the file of the first respondent Police and quash the same as illegal.

|                                |                                                             |
|--------------------------------|-------------------------------------------------------------|
| For Petitioners                | : Mr.V.Kathirvelu, Senior Counsel<br>For Mr.K.Muraleedharan |
| For 1 <sup>st</sup> Respondent | : Mr.M.Sakthi Kumar<br>Government Advocate (Crl. Side)      |
| For 2 <sup>nd</sup> Respondent | : Mr.K.R.Selvakumar                                         |

### **ORDER**

This petition has been filed to quash the FIR in Crime No.13 of 2020 dated 18.12.2020, on the file of the first respondent Police.



2. According to the petitioners, the petitioners are arrayed as A6 and A7 by the respondent Police for the offence under Sections 147, 148, 447, 294(b), 465, 468, 471 and 506(ii) of IPC in Crime No.13 of 2020. The alleged occurrence was took place on 14.12.2020 at about 11.00 hours. The case of the complaint is that one Sakthivel Raja, the second respondent herein lodged a complaint as against the petitioners and five others and five unknown persons. The petitioners are arrayed as A6 and A7 in the FIR without having any nexus to the alleged subject matter in issue. The property in Survey No. 11/6 measuring 79.50 cents situated at Madurai-Virudhunagar Highways belonged to one Nirmala, Raji and Thirumagal and they had run the business of M/s. Indumathi Refines Pvt. Ltd., at Chennai and availed some credit facilities from the State Bank of India by mortgaging the above said property and the said loan was declared as NPA, the bank had initiated SARFAESI proceedings as against them. A retail outlet has been run in the name and style of M/s.S.P.K Agencies and the said land is on lease to the Indian Oil Corporation Limited and valid upto 17.06.2031.

3. The defacto complainant and his wife had purchased the land from the Bank when they initiated Tender cum auction sale, as per the sale certificate issued by the bank dated 13.12.2013. When the sale cum auction was proceeded by the bank, Indian Oil Corporation Limited objected the same on the ground of subsisting lease in favour of Indian Oil Corporation



Limited. In the tender cum auction sale, the bank had specifically mentioned that the sale is subject to lease in favour of the Indian Oil Corporation Limited. The defacto complainant after purchase accepted the tenancy and received the rent as lessor from the Indian Oil Corporation Limited till February 2019. The defacto complainant wanted to run the retail outlet in the property, which is as against the Rules and Regulations of Indian Oil Corporation Limited. The defacto complainant purchased the property and started harassing both the Corporation officials and dealers by filing vexations complaints. In such process, already the defacto complainant harassed both the petitioners and other officials of the Indian Oil Corporation Limited by giving petitions after petitions to several authorities and failed and moved before the District Collector to cancel the No Objection Certificate issued to the Corporation under the Petroleum Rules. The District Collector, Virudhunagar passed an order dated 05.12.2020, cancelling the NOC, without conducting any proper enquiry. As against the order Indian Oil Corporation Limited has filed writ petition in W.P.(MD)No.19111 of 2020 before this Court and this Court has granted interim stay. Thereafter, the defacto complainant has given a false complaint stating that on 14.12.2020 at about 11.00 hours, the defacto complainant was proceeding towards renovation works, the accused 1 to 5 and other 5 unknown unlawfully assembled with deadly weapons and trespassed in to the property and they have fabricated documents in favour of them with stamp papers and



signatures obtained before one year back from the defacto complainant and his wife. The allegation as against the petitioners is that they have colluded together with other accused and the first petitioner assured the defacto complainant to transfer the licence to him and fraudulently created some document and thereby, cheated them. The case of the prosecution is false and motivated. The petitioners are the officials of Indian Oil Corporation Limited and they have discharged their duty. Therefore, the FIR against the petitioners are liable to be quashed.

4.No counter was filed on the side of the respondents.

5.The learned counsel appearing for the petitioners would contend that the petitioners are staffs of Indian Oil Corporation and they have no way connected with alleged crime. Already there is a dispute with regard to the said land in Survey No.11/6, in which the retail outlet shop is running by Indian Oil Corporation Limited. These petitioners are no way connected with the property as well as the alleged crime. Already the property was leased out to the Indian Oil Corporation Limited till 2031. The defacto complainant wanted the dealership of Indian Oil Corporation Limited and they tried to get licence for the dealership. To get dealership, there are so many legal formalities and the respondents have to fulfil all the conditions. These petitioners have no roll with regard to the dealership of the complainants.



Now the defacto complainant falsely implicated these petitioners. Even according to the FIR, no any specific overt act against these petitioners. The allegation against the petitioners are vague and thereby, the FIR against the petitioners are liable to be quashed.

6.The learned Government Advocate appearing for the first respondent would contend that the second respondent had given a complaint before the first respondent. Based on the complaint, the first respondent registered a FIR and after registering the FIR, immediately the petitioners filed this petition and got stay and thereby, the matter has not been investigated and the allegations are serious in nature and after investigation only, the truth will come out. At this stage, this petition is liable to be dismissed and the petitioners have to wait till the completion of the investigation.

7.The learned counsel appearing for the second respondent would contend that these petitioners obtained signatures to get licence for the dealership. Thereafter they failed to get licence and thereby, they cheated the defacto complainant and also created false documents. On the date of occurrence, these petitioners along with five unknown persons entered into the defacto complainants hand and caused criminal intimidation. These petitioners created forged documents by obtaining signature of the second



respondent. Hence, the complaint was lodged. The case is in initial stage and after investigation, the truth will come. At this stage, this Court cannot quash the FIR.

8.This Court heard both sides and perused the materials available on record.

9.On perusal of the records, it is observed that there is a dispute pending between the previous owners of the property and the second respondent with regard to the dealership of Indian Oil Corporation. The vendors of the defacto complainant are owners of the property and they leased out the property to Indian Oil Corporation Limited and they got dealership. The vendors of the second respondent obtained loan from the bank and due to default in payment of loan, the bank proceeded under SARFAESI Act. The defacto complainant has purchased the property through bank auction. Thereafter the second respondent wanted to get dealership with the Indian Oil Corporation Limited and thereby, there are some misunderstanding between them. Thereafter, both the parties filed civil suits and the same are also pending. Even according to the complaint, the alleged occurrence took place on 14.12.2020 but the complaint was given on 18.12.2020. There is a delay in preferring the complaint. Even according to the complaint, the allegation against the petitioners is that the officials got



signature from the defacto complainant for obtaining licence in his favour and failed to get licence and thereby, they cheated the defacto complainant.

The allegation found in the FIR are not specific and vague and these petitioners are working in Indian Oil Corporation Limited and they have no business to get licence from the Indian Oil Corporation to the defacto complainant. The petitioners being Divisional Manager and Sales Officer have no authority to transfer the licence. Therefore, the averments made in the complaints shows the civil nature and no offences made out as against these petitioners. The implication of these petitioners in the said case is clear abuse of process of law and thereby this petition is liable to be allowed.

10. Accordingly, this Criminal Original Petition is allowed and the FIR registered as against these petitioners in Crime No.13 of 2020 is hereby quashed.

**02.08.2023**

NCC : Yes/No

Internet : Yes/No

Index : Yes/No

Mrn

To

1. The Inspector of Police,  
S.P.Pattinam Police Station,  
Ramanathapuram District.
2. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.



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**P. DHANABAL,J.**

Mrn

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