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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30/01/2023

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CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Cr1.OP(MD)Nos.783 and 784 of 2019

and

Cr1.MP(MD)Nos.346, 347 of 2019, 4124 and 4127 of 2020

(1)Cr1.OP(MD)No.783 of 2019:-

Azeela @ Mary : Petitioner/A2

Vs.

1.State rep. By
The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur,
Thanjavur District.
(Crime No.125 of 2018) : R1/Complainant

2.Deepa Meenal,
Branch Manager,
Karur Vyasya Bank (Vilar Branch),
Vilar Road, Thanjavur,
Thanjavur District. : R2/De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records in Crime No.125 of 2018, dated 28/04/2018 on the file of the 1st respondent herein and quash the same as for as the petitioner herein and pass such further or other orders.

For Petitioner : Mr.K.Veilmuthu

For 1st Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.Pala Ramasamy



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(2) Cr1.OP (MD) No.784 of 2019 :-

Azeela @ Mary

: Petitioner/A1

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Vs.

1.State rep. By

The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur,
Thanjavur District.
(Crime No.126 of 2018)

: R1/Complainant

2.Yousuf

: R2/De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records in Crime No.126 of 2018, dated 28/04/2018 on the file of the 1st respondent herein and quash the same as for as the petitioner herein and pass such further or other orders.

For Petitioner : Mr.K.Veilmuthu

For 1st Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)

2nd Respondent : Died

COMMON ORDER

These criminal original petitions have been filed seeking quashment of the entire proceedings in respect of Crime Nos.125 and 126 of 2018 on the file of the first respondent police.



Cr1.OP(MD)No.783 of 2019:-

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2.The case of the prosecution in brief:-

The de-facto complainant namely Deepa Meenal is the Branch Manager of KVB Bank, Vilar Branch, Thanjavur. She made a complaint against the accused persons with the following allegations:-

A1 is one G.Arunkumar, who was working as Branch Manager of KVB Bank, Vilar Branch and A2 is the one of the customer of the above said Bank, who is the petitioner in herein. It has been stated that the petitioner herein namely Azeela @ Mary and her husband by name Joseph @ Yousuf are their customers. They are having separate safety lockers. The husband of the petitioner namely Joseph @ Yousif was working in abroad and he was maintaining Non-Resident Indian Account. He was also maintaining a separate locker in Locker No.III,H11. Similarly, this petitioner is also having separate locker. On 23/04/2018, the husband of this petitioner namely Joseph @ Yousif returned to India and tried to open the locker, on 23/04/2018, But it could not be done. It was intimated to the Bank Manager. During enquiry, it was found that without the permission of the above said Joseph @ Yousif and without following due procedure, another lock was put up. Further enquiry reveals



that this petitioner threatened A1 namely G.Arunkumar to open the locker. At the request made by A1, on 30/10/2017, the locker was opened and the articles were also taken by this petitioner. But the above said list of articles were not intimated to the Bank. On the basis of the above said complaint, A case was registered in Crime No.125 of 2018 for the offences punishable under sections 465, 379, 420, 409, 403 and 120(B) IPC.

3.Pending investigation, this petition has been filed by this petitioner, seeking quashment on the ground that because of matrimonial issue between herself and her husband, the present FIR has been registered and the locker No.III,H11 was operated by her as well as her husband; Even as per the allegation made in the FIR, *prima facie* the allegations does not attract any of the offences mentioned in the FIR.

4.Heard both sides and the entire CD file has been called for and perused.

5.At the outset, the learned Additional Public Prosecutor would submit that the petitioner herein is also involved in a murder case, involving the murder of her husband and more than one case have been registered against her. The murder case was charge sheeted in SC No.366 of



2022 in the trial court and now, the above said case is posted for judgment.

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6.The learned counsel appearing for the petitioner would reiterate the ground made in the petition stating that she is only having joint account and she is also entitled to operate the locker; The allegation that it was broke open and another lock was put up is not correct; In respect of the very same transaction, two separate FIRs have been registered, which is not maintainable under law.

7.In the light of the above said facts, let us go to the CD file.

8.Perusal of the CD file shows that it is a lengthy matrimonial dispute between the petitioner and her husband. After the marriage, they went to Dubai and living there for sometime. A male child was born, on 23/09/2006 and later, after two years, she became pregnant. So both of them returned to India and the second child was born, on 11/09/2008. The husband returned to Dubai and later, some sort of difference of opinion arose between them.

9.It is further seen that locker No.III,H11 was operated jointly by this petitioner and her husband. This is the prime contention, that has been raised by the



petitioner. So it is seen that this is nothing, but joint operation. In the formalities itself, it is seen that it can be operated either by one or their survivor.

10. In so far as the another locker is concerned, it is standing in the name of the petitioner and she operated independently. There is no dispute with regard to the single operation of the locker.

11. Now the dispute is with regard to the joint operation of the locker namely No. III, H11. This petitioner made a request to the Bank Manager for duplicate key, since the original key was missing and the charges were also paid by this petitioner for arranging duplicate key.

12. It is further seen that on 30/11/2011, this petitioner acknowledged taking of the articles by breaking open the locker. But we find no reference to the locker number. Whether it was pertaining to the independent locker or joint locker, particulars are not available in the CD file.

13. Even if we take that it is in respect of joint safety locker, the petitioner ought to have obtained consent of her husband to get duplicate key. How A1 missed the proper proceedings is not explained by this petitioner.



Now the matter is pending for investigation and those things will be brought on record and will be found out only during the course of investigation. This is premature stage to quash the investigation proceedings. So the investigation might be taken in its logical conclusion. On that sole ground, this criminal original petition is liable to be dismissed.

Cr1.OP(MD)No.784 of 2019:-

14.In this case, the de-facto complainant is the husband of the petitioner/A1 namely Azeela @ Mary. He lodged a complaint, on 28/04/2018 with the following allegations.

15.He has stated with regard to the love marriage, birth of the child, etc., facts. In addition to that, it has been stated that when he was in Dubai, he was sending money to his wife and the wife was doing all the transactions in the Bank and several properties were also purchased and those were in her custody and the maintenance of his wife. They opened a joint account locker and kept the articles. But later, he was informed that some sort of misdeeds are being committed. He was also informed that without proper passport, his wife try to go to Srilanka. She is also having illegal conduct with two persons. She



removed some of the articles and other documents from the above said joint locker, put the same in a separate locker and on 16/09/2017, she tried to commit theft of 15 sovereigns of jewels. On 18/09/2017, the above said two persons namely Senthil and another person by name Nandu in the police uniform trespassed into the house and assaulted him. At that time, this petitioner instigated them to kill. But he has escaped from the above said assault and went to Kuwait, on 22/09/2017. On 31/03/2018, he returned to Chennai and found the house locked, did not know where the petitioner was living and other valuable articles were found stolen. He also came to know that the above Senthil making arrangement to sell the property. He also came to know about the breaking open of the locker. The documents, which was kept in the locker were also found stolen. On the basis of the complaint, the case has been registered in Crime No.126 of 2018 for the offences punishable under sections 379, 380, 406, 506(ii), 120(b) r/w 34 IPC.

16. Seeking quashment of the same, this petition has been filed by the wife of the de-facto complainant, who is arrayed as A1.

17. The entire CD file has been called for and perused.



18.This quash petition has been filed on the very same ground, as we find in CrI.OP(MD)No.783 of 2019.

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19.Perusal of the CD file shows that this petitioner was arrested and her confession statement was recorded and search warrant was also issued by the competent court and on that basis, the alleged articles have been recovered from her and later, she was also receiving the the same from the Inspector of Police.

20.Now the question, which arises for consideration is whether the above said commission of criminal intimidation, stolen of articles, etc., are true or not cannot be matter for consideration in this petition. It is a matter for investigation.

21.It is also stated that because of the stay order, the investigation has not been completed so far. So I am of the considered view that this is not the fittest case to exercise the power under section 482 Cr.P.C to quash the criminal proceedings.

22.As stated in the earlier order, the investigation must be undertaken in its logical end. So, I find no merit in this criminal revision also and accordingly, it is liable to be dismissed.



23. In the result, both criminal original petitions are **dismissed**. Consequently connected Miscellaneous Petitions are closed.

30/01/2023

Index: Yes/No
Internet: Yes/No
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To,

1. The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur,
Thanjavur District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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