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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 09/06/2023

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The Hon'ble Mr. Justice **G. ILANGO VAN**

Cr1.OP(MD) Nos.7566 and 7567 of 2023
and
Cr1.MP(MD) Nos.6611 and 6613

(1).Cr1.OP(MD) No.7566 of 2023

R.Sunish		: Petitioner/R3
	Vs.	
1.V.P.Paulchan		: R1/Petitioner
2.The Sub Inspector of Police, Pazhavor Police Station, Tirunelveli District. (In Crime No.172 of 2022)		
3.The Inspector of Police, D.C.B. Police Station, Tirunelveli, (In Crime No.172 of 2022 of Pazhavor P.S)		: R2 and R3/R1 and R2

PRAYER:-Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records of the common order, dated 23/03/2023 in Cr.M.P Nos.23679 of 2022 passed by the Chief Judicial Magistrate, Tirunelveli District and set aside the same as illegal and pass such further or other orders.



(2).Cr1.OP(MD)No.7567 of 2023

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R.Sunish

: Petitioner/R3

Vs.

1.A.K.Reeju

: R1/Petitioner

2.The Sub Inspector of Police,
Pazhavor Police Station,
Tirunelveli District.
(In Crime No.172 of 2022)

3.The Inspector of Police,
D.C.B. Police Station,
Tirunelveli,
(In Crime No.172 of 2022
of Pazhavor P.S)

: R2 and R3/R1 and R2

PRAYER:-Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records of the common order, dated 23/03/2023 in Cr.M.P Nos.23682 of 2022 passed by the Chief Judicial Magistrate, Tirunelveli District and set aside the same as illegal and pass such further or other orders.

For Petitioner : Mr.L.George Paul Anto
(in both cases)

For R2 and R3 : Mr.B.Nambiselvan
(in both cases) Additional Public Prosecutor

**COMMON ORDER**

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These criminal original petitions have been filed seeking quashment of the common order, dated 23/03/2023 in Cr.M.P Nos.23682 and 23679 of 2022 passed by the Chief Judicial Magistrate, Tiruneveli District.

2.The facts in brief:-

The petitioner herein lodged a complaint stating that he is working as Manager in Murugan Mines Quarrying situated at Irukkanthurai village. A1 and A2 taken black stones from their quarry and liable to pay Rs.50,00,000/-. Towards the discharge of the above said liability, two cheques were issued for Rs.10,00,000/- each, by A1. That was presented for payment before the ICICI Bank, Anna Salai Branch. But it was returned due to insufficient funds. At that time, they came to know that they have been cheated by the accused. When demand was made to A2 to A6, he was abused and criminally intimidated. Over which, a case in Crime No.172 of 2022 was registered for the offences under sections 120(b), 294(b), 406, 420 and 506(ii) IPC.



3. Pending investigation process, CrI.MP Nos.23679 and 23682 of 2022 have been filed by one V.Paulachan and A.K.Reeju under section 91 r/w 100 Cr.P.C., seeking direction against the search warrant to secure the vehicles from the custody of this petitioner on the ground that the vehicles mentioned in the petition namely KL-64-K-1601 and KL-16-Y-1545 were kept illegally by this petitioner from 28/02/2022 in his quarry, which have no connection with this case.

4. The above said petitions were resisted by this petitioner stating that during the investigation in Crime No.172 of 2022, the second respondent police released the two vehicles, which are the subject matter of this case and the police may also seize the vehicle, suspecting in Crime No.172 of 2022. Here, the vehicles have not been seized so far. In this regard, he sent a representation, which was not considered. The above said petition was closed by the trial court with a direction to the owners of the above said two vehicles to approach the Sub Inspector of Police, Pazhavor police station, for necessary action.



5.Challenging the same, these criminal original petitions have been filed by the petitioner on the ground that filling of the petition under section 91 r/w 100 Cr.P.C is not at all maintainable and they ought to have filed an application under section 457 or 451 Cr.P.C, as the case may be.

6.Heard both sides.

7.This court is not in a position to appreciate the grievance of both sides.

8.Admittedly, a case in Crime No.172 of 2022 was registered on the basis of the complaint given by this petitioner against six persons and the respondent namely V.P.Paulchan and A.K.Reeju, who were not the accused and that case was registered on the basis of some business transaction between the parties and how these two vehicles are involved in the above said is not clear on record. In the complaint, it has been simply stated that one Sajeen is a driver of the vehicle bearing registration No.KL-16-Y-1545 and one Suresh is a driver of the vehicle bearing registration No.KL-64-K-1601.



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9.It has been stated that the above said vehicles were used for transporting the black stones of the complainant namely the petitioner herein. Simply because the above said vehicles were used by the above said persons for transporting the black stones from the mines or quarry belongs to this petitioner, they should not have been shown as properties. As mentioned above, it is simply a business transaction between the parties. It appears that this petitioner wanted to retain the above said vehicles for the settlement of the dues. So, due to misconception of law and fact, both the owners namely V.P.Paulchan and A.K.Reeju filed those petitions, it has been rightly closed by the trial court, directing the owners of the properties to approach the concerned jurisdictional police for proper remedy. So, I find absolutely no reason to entertain these petitions.

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

09/06/2023

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

- 1.The Chief Judicial Magistrate,
Tirunelveli.
- 2.The Sub Inspector of Police,
Pazhavor Police Station,
Tirunelveli District.
- 3.The Inspector of Police,
D.C.B. Police Station,
Tirunelveli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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Cr1.OP(MD)Nos.7566 and 7567 of 2023

09/06/2023