



CrI.O.P(MD).No.11235 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2023

CORAM:

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

CrI.O.P(MD).No.11235 of 2020

and

CrI.M.P(MD) No.5127 of 2020

1. Varadharaj
2. Raman
3. Neethi

...Petitioners

Vs

1. The Inspector of Police  
Devathanapatti Police Station,  
Theni District

2. Arivalagan

...Respondents

***PRAYER:*** Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records on the file of the first respondent/complainant in Crime No.1362 of 2020 and quash the same as illegal as far as the petitioners 1 to 3 accused are concerned.

For Petitioners : Mr.M.A.M.Raja

For R-1 : Mr.R.M.Anbunithi  
Additional Public Prosecutor

For R-2 : No appearance



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## **ORDER**

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.1362 of 2020 pending on the file of the first respondent.

2. There is no representation on behalf of the second respondent/defacto complainant. Already this case was adjourned several times for hearing the second respondent. Today, when the matter is taken up for hearing there is no appearance on behalf of the second respondent. Already this Court had elaborately heard the arguments of the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent, hence this Court is inclined to pass orders with the available records.

3. According to the petitioner, the first respondent/ complainant has registered the First Information Report in Crime No.1362 of 2020 for the offences under sections 447 and 427 of IPC dated 25.09.2020 against the petitioners herein. Infact the mother of the first petitioner namely Muthulakhmi and one M.Raju had registered partnership business of real estate in the name of "PRV Properties" in the year 2012 and the said Raju was an active partner and the mother of the first petitioner is a silent partner. Partnership firm had purchased properties for business and sold out into plots as per deed. There was dispute



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between the partners regarding rendering of property accounts and sharing of profit, hence the mother of the first petitioner has filed a civil suit in O.S.No.1 of 2016 before the District Munsif Court, Periyakulam and the said suit was closed since the matter was referred to arbitration. Thereafter, the mother of the first petitioner has filed Arbitration Original Petition for appointment of arbitrator in O.P.No.348 of 2019 and the same was closed by Arbitrator on 20.03.2023 on the basis of point of limitation with a finding that civil trial is necessary for the right of the parties. Therefore the mother of the first petitioner filed a civil suit in O.S. No.21 of 2017 before the District Court, Theni for dissolution of partnership, to render account and for partition over the properties. Infact the said Raju has filed so many false complaints against the first petitioner and his mother with regard to this issue in the year 2019 and the said Raju had induced one Kumaresan who is alleged to be the watchman of the property to lodge complaint as against the petitioner and the First Information Report was registered in Crime No.224 of 2018 by the first respondent, however the same was quashed by this Court by an order dated 26.04.2019 in CrI.O.P(MD) No.5945 of 2019 by holding that the mother of the first petitioner has equal share of the disputed property. Again the said Raju had induced one Duraipandi and lodged complaint through him against the petitioner in Crime No.316 of 2018 which was challenged before this Court in CrI.O.P(MD) No.9676 of 2018 and the



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same is pending. Again the said Duraipandi induced Kumaresan to lodge complaint against him for illegal trespass and life threat in Crime No.73 of 2019 in that case final report was filed in C.C. No.152 of 2019 and the same is pending before the learned Judicial Magistrate, Periyakulam. The second petitioner is none other than the henchmen of the said Raju. No occurrence had taken place as alleged in the First Information Report, only to rope the petitioners in the criminal case the second respondent has given a false complaint and the first respondent without verifying the real facts had registered the First Information Report, hence the act of the second respondent is a clear abuse of process of law and the said First Information Report is liable to be quashed.

4. The learned counsel appearing for the petitioners has argued that already so many cases were filed against the petitioner and his mother and there is a dispute between one Raju and the mother of the first petitioner with regard to the partnership firm and civil dispute also pending between them. Now the said Raju, who is the partner of the mother of the first petitioner induced to give complaint through various persons and which is an abuse of process of law. In fact, the mother of the first petitioner also having share over the property since she is also a partner in the said partnership business. The offences charged against the petitioners are that they have trespassed into the property and



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damaged the lock. Since the mother of the first petitioner is the partner, the offences under sections 447 of IPC., ie., criminal trespass would not arise. As far as Section 427 of IPC is concerned, there is no damage caused by the petitioners as alleged in the First Information Report. No other properties have also been damaged as alleged in the First Information Report, hence the First Information Report is to be quashed.

5. The learned Additional Public Prosecutor appearing for the first respondent contended that the second respondent has lodged complaint on 25.09.2020 and based on that First Information Report in Crime No. 1362 of 2020 came to be registered for the offences under sections 447 and 427 of IPC and now the case is under investigation and also stated that other cases also registered as against the petitioners and the mother of the first petitioner in various crime numbers with regard to the same property, through the said Raju and his employees

6. This Court had heard the arguments of the learned counsel for the petitioner, learned Additional Public Prosecutor and perused the materials available on record.

7. On perusal of the records, it is observed that civil dispute is pending between the mother of the first petitioner and one Raju with



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regard to the partnership business. This disputed property is also under challenge before the civil Court. The title of the property has to be decided by the civil Court since the mother of the first petitioner is claiming that she is one of the partner having share over the property. Therefore the question of section 447 of IPC, i.e., criminal trespass would not attract. Even according to the First Information Report, there is no mention about the damage of the properties and only mentioned that three locks were broken and not mentioned any damages and no specific value of the alleged damaged properties was mentioned in the complaint and the First Information Report. Even as per the complaint the petitioners committed theft but no mentioned about the properties stolen by the petitioners and the averments of the complaint are vague. Further already so many First Information Report have been registered against the petitioners and the mother of the first petitioner and among them some of them were also quashed by this Court. Even according to the First Information Report, no offence is made out. Since civil dispute is pending between the parties after adjudication by the competent court, the title of the property can be decided. When the title itself is under question and the same is pending before the civil court the filing of the First Information Report through his employee by the said Raju is a pure abuse of process of law. Hence the First Information Report in Crime No.1362 of 2020 on the file of the first respondent is liable to be quashed.



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8. Accordingly, this Criminal Original Petition is allowed and the First Information Report in Crime No.1362 of 2020 on the file of the first respondent, is hereby quashed. Consequently connected miscellaneous petition is closed.

**10.07.2023**

NCC : Yes/No  
Internet : Yes/No  
Index : Yes/No  
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To

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



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**P. DHANABAL,J.**

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