



Crl.O.P.(MD) Nos.15611 and 18470 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 31.10.2022

PRONOUNCED ON : 11.08.2023

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P(MD)Nos.15611 and 18470 of 2022

and

Crl.M.P(MD)No.10263 of 2022

Crl.O.P.(MD)No.15611 of 2022:-

1.R.Dhandapani
2.M.Sabapathy
3.D.Dhanalakshmi
4.Subramani
5.Muthuraj
6.Venkadasalam
7.V.Sangeetha

...Petitioners

-VS-

1.State represented by
the Inspector of Police,
Ottanchathiram Police Station,
Dindigul District.
(in Cr.No.178 of 2022)

2.Vijayalakshmi

...Respondents



CrI.O.P.(MD) Nos.15611 and 18470 of 2022

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in FIR in Cr.No.178 of 2022 on the file of the first Respondent and to quash the same.

For Petitioner	: Mr.S.Krishnan
For R1	: Mr.B.Nambi Selvan Additional Public Prosecutor
For R2	: Mr.M.Ajmal Khan Senior Counsel for Mr.S.R.Sureshkumar

CrI.O.P.(MD)No.18470 of 2022:-

C.Vijayalakshmi

...Petitioner

-VS-

1.The Superintendent of Police,
Dindigul District.

2.The Inspector of Police,
Oddanchatram Police Station,
Oddanchathiram,
Dindigul District.
(Crime No.178 of 2022)

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to transfer the investigation in Cr.No.178 of 2022 on the file of the second Respondent Police to any other competent agency.

For Petitioner	: Mr.M.Ajmal Khan Senior Counsel
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for Mr.S.R.Sureshkumar

For Respondents : Mr.B.Nambi Selvan
Additional Public Prosecutor

COMMON ORDER

Crl.O.P(MD) No.15611 of 2022

Crl.O.P(MD)No.15611 of 2022 has been filed to quash the First Information Report in Crime No.178 of 2022 on the file of the first Respondent Police.

2(1).The husband of the second Respondent and the first Petitioner herein agreed to purchase 12 acres of property and on that basis, the husband of the second Respondent gave his share of Rs. 15,00,000/-. There was some dispute regarding partition of properties between the husband of the second Respondent and his brother. 12 acres of property was purchased in the joint name of the second Respondent's husband and the third Petitioner. By investing huge amount, he had purchased the property. Since the first and third Petitioner continuously insisted the second Respondent's husband to pay the due amount, he has



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given complaint before the Ambilikai Police Station. In turn, the third Petitioner has also given complaint before the same Police Station, for which CSR No.206 of 2018 was registered and the parties were enquired. Since they agreed to settle the dispute, the Police closed the complaint. The first and third Petitioners cheated the second Respondent and her husband.

2(2).The learned Counsel for the Petitioners invited the attention of this Court to Section 58(c) of Transfer of Property Act and Article 59 of the Limitation Act and submitted that the sale deed is of the year 2014 and the First Information Report was registered on 08.04.2022. It is time barred. He also relied on the judgment of the Hon'ble Supreme Court in the case of *Randheer Singh .vs. The State of Uttar Pradesh and Other* in *Criminal Appeal No. 932 of 2021*.

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3.Crl.O.P(MD)No.18470 of 2022 has been filed to transfer the investigation in Crime No.178 of 2022 on the file of the second Respondent Police to any other investigating agency.



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3(1).The Petitioner herein is the De-Facto Complainant. Her husband, Chelladurai @ Sivaraj, owned 3.5 acres of agricultural land. He borrowed a sum of Rs.26 lakhs from A1/R.Dhandapani, who was the Assistant Director of Panchayat on condition that he should execute a sale deed in favour of his brother-in law, namely, Sabapathi, who is A2 in this case. A representation was made by A1, as on that for the amount paid, sale deed will be executed. Sale deed dated 19.08.2014. On the very same date, agreement was entered into between the parties for cancellation and for resale of property on repayment of Rs.26 lakhs. That agreement was also on the same day ie., on 19.08.2014. The property was in possession of the Petitioner and her husband and they are doing cultivation. In the meanwhile, an attempt was made by A1 to A3 to trespass into the property. A complaint was given by the Petitioner and her husband to the Respondent police. Consensus arrived at the Police Station and they are ready to repay the amount. He has also paid a sum of Rs.11.5 lakhs to R.Dhandapani and balance amount is yet to be repaid.

3(2).A2 is the brother-in-law of A1. A2 executed a settlement deed in favour of his sister. On 31.03.2022, A3 executed sale deed in favour of A7. A suit was filed by the husband of the Petitioner in O.S.No.151 of 2022



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before the learned Additional District Judge, Palani, for declaration, injunction and to declare the sale deed executed earlier as null and void and the same is still pending.

3(3).If sale deed is executed, the pre condition is that for repayment of loan amount, he will cancel and sell the property and only on the strength of the said representation, he executed sale deed in favour of the Petitioner's husband. Thereafter, he refused to execute a sale deed. Hence the First Information Report was registered under Sections 147, 417, 420, 406, 294(b) and 506(2) of IPC.

3(4).The learned Counsel for the Petitioner submitted that no enquiry is conducted and no statement of the Petitioner or her husband was recorded under Section 161(3) of Cr.P.C. Further, none of the parties have obtained anticipatory bail before the Sessions Court or before High Court. He would also submit that the Respondent Police are in collusion with the accused persons. The Petitioner also got information from the Police concerned that they are going to refer the case. Therefore, representation was given by the Petitioner to the Superintendent of Police on 12.10.2022. He would also



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submit that the Respondent Police has no jurisdiction to investigate the case.

Only the District Crime Branch has to investigate the case.

4.The learned Counsel for the Petitioner in Crl.M.P.(MD)No.13007 of 2022 in Crl.O.P.(MD)No.15611 of 2022 had also sought to implead the Petitioner in the Petition seeking to quash the complaint on the ground that the Petitioner in Crl.O.P.(MD)No.15611 of 2022 had influenced the Investigation Officer. Therefore, the Investigation Officer had completed the investigation and dropped the proceedings and is likely to file before the Court of the learned Judicial Magistrate on the direction of this Court earlier that the Investigation shall proceed, but shall not file the final report till the Crl.O.P(MD)No.15611 of 2020 is disposed. Therefore, waiting for filing of the final report. On hearing this, the present Petition is filed to implead himself, as Respondent in this case.

5.It is the contention of the learned Senior Counsel for the Petitioner in Crl.O.P.(MD)No.18470 of 2022 that the first Respondent before closing the investigation, did not record the statement of the De-Facto Complainant or her husband. The documents that were furnished by the De-Facto



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Complainant was taken by the Investigation Officer, but did not proceed.

The first Petitioner, R.Dhandapani, had alleged to have paid Rs.26,00,000/-.

The learned Counsel for the Petitioner would further submit that the same is time barred and a civil dispute is converted into a criminal case. Therefore, he seeks to quash the complaint.

6.Considering the rival submissions, it is found to be a civil dispute attracting Section 58 of the Transfer of Property Act as already pointed out by Mr.M.Ajmal Khan, learned Senior Counsel for the Petitioner in Crl.O.P.No.18470 of 2012 it is a mortgage wherein there are different types of mortgage by condition sale is attracted. Here the complainant party/Petitioner in Crl.O.P.No.18470 of 2022 had stated that they had paid part of the amount viz., Rs.11,50,000/- and till date, they are in possession of the property. Therefore, they had filed a complaint to the Police stating that the Petitioners in Crl.O.P.No.15611 of 2020 attempted to trespass and dispossess the Petitioner in Crl.O.P.No.18470 of 2022. Also, the Petitioner in Crl.O.P.No.18470 of 2022 filed suit in O.S.No.151 of 2022 before the learned Additional District Judge, Dindigul against the very same Petitioners 1 to 7. Therefore, the claim by the Petitioner in Crl.O.P.No.



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18470 of 2022 stating that they understand that the first Respondent Inspector of Police intend to drop the investigation as Mistake of Fact is found unacceptable since the Investigation Officer is aware of the legal complications arising out of a case which is in civil nature. The contention of the learned Senior Counsel appearing for the second Respondent in Crl.O.P.No.15611 of 2022 as Petitioner in Crl.O.P.No.18470 of 2022 cannot at all be accepted.

7.In short, it is a case of civil nature attracting the provisions of Section 58 of the Transfer of Property Act as already pointed out by the learned Senior Counsel for the Petitioners in Crl.O.P.(MD) No.15611 of 2022 that Article 59 of the Limitation Act is attracted. What are all the consequences, then a civil nature and the Petitioner in Crl.O.P.(MD)No. 18470 of 2022 as Complainant before the first Respondent is attempting to convert a civil case into a criminal case. Therefore, the FIR is to be quashed.

In the result, **Criminal Original Petition (MD) No.15611 of 2022 is allowed.** Accordingly, FIR in Crime No.178 of 2022 on the file of the first



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Respondent/Inspector of Plice, Ottanchathiram Police Station, Dindigul District, is quashed in respect of the Petitioners.

In view of the order passed in Crl.O.P.(MD)No.15611 of 2022, no further order is necessary in **Crl.O.P.(MD)No.18470 of 2022 and the same is dismissed.**

11.08.2023

Index:Yes/No
Internet: Yes/No
aav/cmr/srm

To

- 1.The Superintendent of Police,
Dindigul District.
- 2.The Inspector of Police,
Ottanchathiram Police Station,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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SATHI KUMAR SUKUMARA KURUP, J.

cmr/aav/srm

Order made in
CRL.O.P(MD)Nos.15611 and 18470 of 2022

11.08.2023