



Crl.O.P.(MD).No.15699 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.09.2023

CORAM:

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

Crl.O.P.(MD).No.15699 of 2021

and

Crl.M.P(MD) No.8463 of 2021

1. P.Thamilselvan

2. S.Sudhakar

... Petitioners

Vs.

1.The Deputy Superintendent of Police  
Musiri Sub Division  
Musiri, Tiruchirapalli District

2. The Inspector of Police  
Jambunathapuram Police Station  
Tiruchirapalli District

3. Sumathi

..Respondents

**PRAYER:** This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to admit this quash petition on file and to call for the records in Spl.S.C. No.38 of 2021 on the file of the learned I Additional District and Sessions Judge (PCR), Tiruchirapalli and quash the same so far as the petitioners are concerned.

For Petitioner : Mr.V.Kathirvelu, Senior Counsel  
for Mr.K. Prabhu

For R-1& R2 : Mr.R.M.Anbunithi  
Additional Public Prosecutor

For R-3 : Mr.A.Vadivel



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## **ORDER**

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C. No.38 of 2021 on the file of the learned I Additional District and Sessions Judge (PCR), Tiruchirapalli.

2. According to the petitioners based on the complaint given by the third respondent the first respondent registered First Information Report in Crime No. 132 of 2018 for the offences under Sections 294(b), 427, 352, 109 of IPC and Section 4 of TNPHW Act, 3 of TNPPDL Act and Section 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST(PoA) Act, 1992. The case of the prosecution is that the third respondent lodged complaint before the second respondent as against one Karuppannan and his wife Kavitha and five identifiable persons alleging that the third respondent owns property in S.No.331/4B situated Kannanur Survey, Vadakku Veli Village, Thuraiyur Taluk measuring to an extent of 74cents. There was a farm house in the said land and the third respondent was living in the farm house along with her husband, children and her grand mother . The husband of the third respondent borrowed a sum of Rs.3,00,000/- from the first accused for 30% interest. It is the practice in that area to execute the sale deed while borrowing loan amount to get the sale deed in favour of money lender. Hence they executed sale deed in favour of one Kavitha who is the wife of Karuppannan and he was regularly paying the monthly interest of Rs.9000/-. While the facts are being so, the



defacto complainant requested the Karuppannan to return back the property but he sold the property to third party for enhanced sum. Hence on 05.10.2018 the husband of the defacto complainant submitted a petition to the District Collector, Tiruchirapalli to take action and the petition was forwarded to the Tahsildhar for suitable action. In the mean time on 07.10.2018 at night on the instigation of the Karuppannan and Kavitha some unidentifiable persons attempted to demolish the house with JCB and caused injuries to the witnesses. Thereafter on 11.10.2018 when the defacto complainant was working in her house five identifiable persons with JCB were standing in front of the house and asked her to go out of the house by using filthy language and they dragged her mother and grand mother from the house and demolished the house in the morning at about 11.00 a.m., at the instigation of Karuppannan and his wife Kavitha. Based on the said allegations the sessions case is pending in Spl.S.C. No.38 of 2021 on the file of the learned I Additional District and Sessions Judge (PCR), Tiruchirapalli.

**2.1.** Infact these petitioners are not named accused in the First Information Report and no any evidence or overt act as against these petitioners and they have been falsely implicated in this case without any materials. There is a delay of one day in lodging the complaint and already the witnesses were examined under Section 161(3) of Cr.P.C and those statement does not reveal the name of these petitioners. Even



according to the charge sheet no materials are available as against these petitioners. The main allegations are as against other accused and the first petitioner/third accused purchased property from one Kavitha who is also the second accused in this case. Therefore in order to rope these petitioners a false complaint has been given and without any materials charge sheet has been laid and also taken on file. Therefore these petitioners need not face the ordeal of trial and hence the proceedings pending against the petitioners is abuse of process of law and hence the pending proceedings is liable to be quashed.

3. No counter was filed by the respondents.

4. The learned counsel appearing for the petitioners would contend that these petitioners are not involved in any occurrence and the first petitioner purchased the property from the second accused on 23.03.2018. Already the second accused purchased the property from the defacto complainant on 23.01.2016 and based on that sale deed only these petitioners have purchased the property for valuable consideration. He would further submit that these petitioners are no way connected with the above said occurrence. Even according to the First Information Report the name of these petitioners does not found place in the First Information Report and in the statement under Section 164 of Cr.P.C also the witnesses have not spoken about the presence of the petitioners.



Therefore without any materials the first respondent filed final report including the name of the petitioner, hence the case against the petitioners is liable to be quashed.

5. The learned Additional Public Prosecutor appearing for the first and second respondent would contend that based on the complaint given by the third respondent the first respondent registered First Information Report in Crime No. 132 of 2018 for the offences under Sections 294(b), 427,352,109 of IPC and Section 4 of TNPHW Act, 3 of TNPPDL Act and Section 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST(PoA) Act, 1992 as against two named accused and five unnamed accused. Thereafter the first respondent investigated the case and then filed final report and as per the final report the second accused executed sale deed. The third respondent sold the property to the second accused. Thereafter the first and second accused sold the property to the third accused. The first accused advanced loan amount to the third respondent and also received interest. Therefore without the knowledge of the third respondent the first accused along with second accused sold the property to the third accused. Thereafter all the accused entered into the property of the third respondent and criminally intimidated them and also demolished the house situated in the above said property, hence these petitioners also directly involved in the occurrence and hence they have to face the trial and the petition is liable to be dismissed.



6. The learned counsel appearing for the third respondent/defacto complainant would contend that the husband of the defacto complainant borrowed loan from the first accused and for that security purpose the defacto complainant executed sale deed in favour of the second accused and the husband of the defacto complainant regularly paying interest for the said loan amount of Rs.3,00,000/-. In the year 2018 when the husband of the defacto complainant approached the first accused to redeem the property he came to know that the property was already sold by the second accused in favour of the third accused. Thereafter all the accused attempted to evict the defacto complainant from the said property and they entered into property and abused the caste name and also demolished the house situated in the property, thereby she gave complaint before the second respondent and the respondent also registered the First Information Report and the case was investigated by the first respondent and on investigation since *prima facie* materials available as against the accused they filed final report and based on the final report the Special Court has taken cognizance in Spl.S.C. No.38 of 2021. Therefore these petitioners directly participated in the crime and thereby they have to face the trial, hence the petition is liable to be dismissed.

7. Heard both sides and perused the materials available on record.



8. On perusal of the record it is observed that the name of the petitioners have not been mentioned in the First Information Report but the defacto complainant only mentioned Karuppannan and Kavitha and known five identifiable persons. On careful reading of the First Information Report the main accused are Karuppannan and Kavitha and they abused the caste name and also criminally intimidated. The third accused purchased the property in the year 2018 after verifying all the records. The third accused purchased the property for valuable consideration he is not involved in any occurrence and the petitioners also filed copies and statement of witnesses recorded before the learned Judicial Magistrate under Section 164(5) of Cr.P.C.

9. A perusal of those statements they revealed the name of the petitioners were not mentioned and the allegations are only as against the first and second accused. There is no whisper about the name of the petitioners and no specific overt act has been attributed as against these petitioners. Since they purchased the properties their names have been included as accused in the charge sheet and without any materials the charge sheet has been filed as against these petitioners. Therefore the ordeal of trial without any materials is the abuse of process of law. Already these petitioners have filed petition before the Human Rights Commission and the same was also ended in their favour and the defacto complainant also filed a civil suit in O.S. No.118 of 2019 on the file of the



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Sub Court, Thuraiyur to set aside which stands in the name of the first petitioner. Therefore these petitioners can seek their remedy through civil Court with regard to the property.

10. With the above said discussion, this Criminal Original Petition is allowed and the proceedings in Spl.S.C. No.38 of 2021 on the file of the learned I Additional District and Sessions Judge (PCR), Tiruchirapalli is quashed in so far as the petitioners are concerned. Consequently connected miscellaneous petition is closed.

**05.09.2023**

Index : Yes / No  
Internet : Yes / No  
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To

- 1.The I Additional District and Sessions Judge (PCR), Tiruchirapalli
- 2.The Deputy Superintendent of Police  
Musiri Sub Division  
Musiri, Tiruchirapalli District
3. The Inspector of Police  
Jambunathapuram Police Station  
Tiruchirapalli District
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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P.DHANABAL, J.

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