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CRL.OP.(MD)No.17627 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 30.11.2022

DELIVERED ON : 13.06.2023

CORAM

**THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

CRL.OP.(MD)No.17627 of 2022

and

CRL.MP.(MD).No.11966 of 2022

1. Sarguru  
2. Pavunthai : Petitioners

Vs.

1. The State Rep by  
The Inspector of Police,  
Kandamanoor Police Station,  
Theni District. : 1<sup>st</sup> Respondent/Complainant  
2. Ganesan : 2<sup>nd</sup> Respondent/De-facto complainant

**PRAYER:** Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the impugned First Information Report in Crime No.147 of 2022 on the file of the first Respondent Police and quash the same.

For Petitioners : Mr.C.Jeganathan  
For Respondents : Mr.R.Siva Kumar  
Government Advocate (Crl. Side) for R1  
: Mr.R.Manoharan for R2  
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**ORDER**



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This Criminal Original Petition has been filed to quash the First Information Report in Crime No.147 of 2022 on the file of the first Respondent Police.

2.The brief facts, which are necessary for disposal of this Criminal Original Petition, are as follows:

2.1.The second Respondent was employed in Singapore for 14 years and he had been sending money to his father and step-mother to purchase land and jewelery. They did not purchase land or jewelery. After 14 years in Singapore, he returned to India. After coming back to India when he demanded accounts from his father and step-mother, they refused to give accounts regarding the remittances sent by him. Therefore, he lodged a complaint with the first Respondent Police. Based on the complaint, the FIR in Crime No.147 of 2022 was registered against his father and step-mother who are the Petitioners herein. Therefore, the Petitioners had approached this Court seeking to quash the FIR in Crime No.147 of 2022.

3. It is the submission of the learned Counsel for the Petitioners that the first Petitioner is the father of the second Respondent/De-facto Complainant. The second Petitioner is the second wife of the first



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Petitioner and the step mother of the second Respondent. It is the further submission of the learned Counsel for the Petitioners that the second Respondent had preferred a Complaint with the first Respondent, which was not considered by the first Respondent. Therefore, the second Respondent had filed a Criminal Miscellaneous Petition under Section 156 (iii) of Code of Criminal Procedure in CrI.M.P.No.4359 of 2021 before the learned Judicial Magistrate, Andipatti. After recording the statements of the Complainant and other Witnesses, the learned Judicial Magistrate, Andipatti, by an Order dated 30.11.2021, dismissed CrI.M.P.No.4359 of 2021.

4. Aggrieved with the same, the second Respondent had preferred a Criminal Revision Case before this Court in CrI.R.C.(MD).No.240 of 2021, which was dismissed by the then learned Single Judge of this Court by an Order dated 09.03.2022. It is the further submission of the learned Counsel for the Petitioners that suppressing the above proceedings, the second Respondent had preferred a Complaint with the same set of facts for the previous incident as was rejected by the learned Judicial Magistrate, Andipatti and confirmed in the Revision by this Court. Therefore, he seeks to quash the First Information Report in Crime No.147 of 2022 as nothing



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but an exercise to cause harassment to the Petitioners herein with the *mala fide* intention.

5. The learned Counsel for the second Respondent/De-facto Complainant submitted that A1 and A2 are none other than the father and step-mother of the De-facto Complainant. The second Respondent was working in Singapore for the past 14 years. He had sent money to A1 and A2 to purchase land in his name and also to buy gold jewels for him. After 14 years, when he returned back to India, he asked the money or to give accounts for the said money, but they refused to give accounts for the same. Therefore, the second Respondent had initially lodged the Complaint before the Respondent Police. No action was taken. Thereafter, he had approached the learned Judicial Magistrate, Andipatti and filed Petition under Section 156 (3) of Cr.P.C. The learned Magistrate had dismissed the Petition stating that no prima facie case had been made out. Subsequently, he had filed Revision before this Court. Thereafter, he had collected some materials and subsequently lodged a fresh Complaint before the Respondent Police giving accounts of the bank statements and the money sent through the bank account for 86 times.

6. The learned Counsel for the Petitioners submitted that there is no



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inducement and second complaint is not maintainable. He also submitted that only meagre amount has been sent for the period of nine years.

7. Point for Consideration:

***Whether the second complaint is maintainable?***

8. On consideration of the rival submissions, it is found that already the second Respondent had preferred a Complaint under Section 156 (3) of Cr.P.C., before the learned Judicial Magistrate, Andipatti in CrI.M.P.No. 4359 of 2021. After recording the statement of the Complainant and other Witnesses and other relevant records, the learned Judicial Magistrate had dismissed the CrI.M.P.No.4359 of 2021 by an Order dated 30.11.2021. Aggrieved by the same, the second Respondent as Complainant preferred CrI.R.C.(MD).No.240 of 2021 which was dismissed by the learned Single Judge of this Court on 09.03.2022. Subsequent to the dismissal of CrI.R.C. (MD).No.240 of 2021 dated 09.03.2022, the second Respondent had again preferred the Complaint before the learned Judicial Magistrate. Based on which, FIR in Cr.No.147 of 2022 had been registered with the Kandamanur Police Station/first Respondent. It is the contention of the learned Counsel for the Petitioners that the second Complaint on the same set of facts is not at all maintainable. Therefore, he sought to quash the FIR. It is the



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submission of the learned Counsel for the second Respondent that after dismissal of the Crl.R.C., the second Respondent had collected further materials through bank transactions for sending money to the first Petitioner and he had collected the materials, based on which, he had given a Complaint. Therefore, the same is maintainable.

9. In the light of the above, when the earlier Complaint given to the learned Judicial Magistrate was dismissed in Crl.M.P.No.4359 of 2021 by Order dated 30.11.2021 which was confirmed by this Court in Crl.R.C. (MD).No.240 of 2021 dated 09.03.2022. Therefore, there cannot be a second Complaint for the same set of facts. Considering the relationship of the first Petitioner and the De-facto Complainant as father and son, it is nothing but an attempt to harass the father and step-mother. Therefore, the same is to be quashed. The second Respondent ought to have been diligent and careful before filing Complaint against the father, he should have gathered materials. Now, again he cannot file subsequent Complaint on the same set of facts. As per the decision of the Hon'ble Supreme Court in the case of *Samta Naidu -vs- The State of Madhya Pradesh* reported in *(2020) 5 SCC 378*, the second complaint for the same set of facts is not maintainable. Therefore, the FIR in Crime No.147 of 2022 is to be



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quashed.

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10. In the light of the above discussion, the Point for consideration is answered in favour of the Petitioners and against the Respondents. The second complaint given by the second Respondent against the Petitioners herein is not maintainable. Therefore, the FIR in Crime No.147 of 2022 pending with the first Respondent is to be quashed.

In the result, **this Criminal Original Petition is allowed.** The FIR in Cr.No.147 of 2022 pending on the file of the first Respondent is quashed. Consequently, connected Miscellaneous Petition is closed.

13.06.2023

Index: Yes/No  
Internet: Yes/No  
Speaking Order/Non-speaking Order  
dh



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To



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**SATHI KUMAR SUKUMARA KURUP, J.**

dh

1. The Judicial Magistrate,  
Andipatty.
2. The Inspector of Police,  
All Women Police Station,  
Andipatty, Theni District.
3. The Superintendent of Police,  
Theni District.
4. The Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

Order made in

CRL.OP.(MD)No. 19233 of 2022

13.06.2023