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Crl.O.P.(MD)No.19254 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 15/11/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.19254 of 2023

and

Crl.MP(MD)Nos.15189 and 15190 of 2023

1.Murali @ Muralikrishnan
2.Raja @ Rajagopaladurai
3.Mohan @ Mohanraj : Petitioners/A1, A2 and A4

Vs.

1.The Inspector of Police,
Thirumangalam Taluk Police Station,
Madurai District.
(In Crime No.194 of 2011) : R1/Complainant
2.Dakshinamoorthy : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the PRC No.76 of 2023 pending on the file of the Judicial Magistrate, Thirumangalam, Madurai District and quash the same and pass such other orders.

For Petitioners : Mr.R.Aravind Raj

For 1st Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)



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O R D E R

This criminal original petition has been filed seeking quashment of the case in PRC No.76 of 2023 on the file of the Judicial Magistrate, Thirumangalam, Madurai District.

2.The case of the prosecution in brief:-

The de-facto complainant lodged a complaint stating that he is a Land Broker by business and he used to play cards with one Balamurugan and Anjanai and other persons by name Ramanujam, Jayaraj Durai, Ganesan, etc. On 10/06/2011, he was informed by Murali Krishnan through phone to come for playing cards. He went to the place mentioned by Murali Krishnan. At that time, other accused persons were playing cards. He also participated in the game. At that time, the accused persons threatened him to give his Car in lieu of money lost in the game. He was criminally intimidated. Fearing his life, he handed over the Car to the accused persons. Based upon the complaint given by the de-facto complainant, a case in Crime No.194 of 2011 was registered for the offences under sections 420, 387, 506(i) IPC and section 12 of the Tamil Nadu Gaming Act. After completion of the investigation, charge sheet was filed and it was taken cognizance in PRC No.76 of 2023 by the Judicial Magistrate, Thirumangalam, Madurai District.



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3. Seeking quashment of the same, A1, A2 and A4 are before this court stating that the allegations mentioned in the complaint or in the final report does not *prima facie* attract the offences alleged; They were not involved in the occurrence.

4. Heard both sides.

5. In the grounds, it has been stated that during the course of investigation, they were arrested and the jewels were recovered from them; Act 14 of 1982 was invoked. Thereafter, the detention order was quashed by this court. They filed application seeking return of the jewels. The complainant is also impleaded as party respondents. In that proceedings, they appeared and stated that they never lodged any complaint against these petitioners. The above said Anjanai and Bala @ Balamurugan stood as witness Nos.2 and 3 in this matter also. Apart from that, it is also stated that on the very same day, two cases namely the cases in Crime No.141 on the file of the Kallikudi Police Station and Crime No.441 of 2011 on the file of the Thirumangalam Police station were registered. Those two cases have been quashed by this court in Crl.OP(MD)Nos.6130 and 6190 of 2014, by order, dated 23/04/2014. So the ground on which



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this petition came to be filed is that this case has also been filed by citing the alleged complaint in other two matters. According to the petitioner, it is nothing, but a *mala fide* prosecution made by the prosecution solely for the purpose of taking action under the provisions of Act 14.

6.Now the question, which arises for consideration is whether on this ground the entire prosecution can be quashed.

7.I am afraid that such an extreme stand can be taken by this court. Whether the complaint given by the de-facto complainant is true or not, cannot a matter for consideration by this Court while exercising the jurisdiction under section 482 Cr.P.C. It is purely a factual issue. Simply because in some other matters, the alleged de-facto complainants appeared and gave statement that they did not give any complaint against these petitioners, the same analogy or presumption must be drawn in this matter also too remote a point to be taken into account. Factual issues cannot be taken into account. So, I find no reason to entertain this petition.



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8.In the result, this criminal original petition is **dismissed**. Consequently connected Miscellaneous Petitions are closed.

15/11/2023

Index:Yes/No

Internet:Yes/No

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To,

- 1.The Judicial Magistrate,
Thirumangalam,
Madurai District.
- 2.The Inspector of Police,
Thirumangalam Taluk Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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