



Crl.OP.No.8103 and 8326 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.Nos.8103 and 8326 of 2024

and

Crl.MP.No.6099 of 2024

in

Crl.OP.No.8326 of 2024

Shanmugam

... Petitioner
(Crl.OP.No.8103 of 2024)

S.Duraisamy

Now name changed as S.Dhurairaj
(Gazette Notification No.18675 of 2021

.. Petitioner
(Crl.OP.No.8326 of 2024)

Vs.

The Inspector of Police,
District Crime Branch,
Tiruppur, Tiruppur District.

... Respondent
(Crl.OP.No.8103 of 2024)

1. State rep by
The Inspector of Police,
District Crime Branch,
Tiruppur.

2. V.Shanmugam

... Respondent
(Crl.OP.No.8326 of 2024)



Crl.OP.No.8103 and 8326 of 2024

Prayer in Crl.OP.No.8103 of 2024: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to direct the learned Judicial Magistrate-IV, Tiruppur to complete the trial pending in C.C.No.345 of 2023 within the time stipulated by this Hon'ble Court.

Prayer in Crl.OP.No.8326 of 2024: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.345 of 2023 on the file of Judicial Magistrate, Avinashi and quash the same.

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For Petitioner : Mr.R.Ragavendran

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

Crl.OP.No.8326 of 2024

For Petitioner : Mr.N.Manoharan for
Mr.N.Ponraj

For Respondents : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)
for R1

COMMON ORDER

The Criminal Original Petition in Crl.OP.No.8103 of 2024 is filed to expedite the trial in C.C.No.345 of 2023 pending on the file of the learned Judicial Magistrate-IV, Tiruppur and to complete the trial within



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a time frame fixed by this Court. The Criminal Original Petition in Crl.OP.No.8326 of 2024 is filed to call for the records in C.C.No.345 of 2023 on the file of Judicial Magistrate, Avinashi and quash the same.

2. The short points involved in this case are that the property which was sold to this complainant, who is the petitioner in Crl.No.8103 of 2024 was mortgaged by the petitioner in Crl.OP.No.8326 of 2024. In this regard, a complaint was lodged in the year 2014. Investigation was completed in the year 2018. However, the complaint was taken on file only in the year 2023. In the meanwhile, the accused person who is the petitioner in Crl.OP.No.8326 of 2024 had discharged the loan and redeemed the mortgage and as on date, the title of the complainant is free from all encumbrance.

3. In the said circumstances, the petition to expedite the trial filed by the defacto complainant stating that though the debts are cleared and the property is free from encumbrance, but, he was forced to undergo the ordeal of litigation in the year 2010 and only in the year 2017 the loans were cleared by the complainant and made his property free from encumbrance.



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4. The learned counsel appearing for the accused who is the petitioner in Crl.OP.No.8326 of 2024 would submit that by inadvertence along with other property and the property in which he has already have a right and title for an extent of 26 cents, he has mortgaged the entire 1.83 acres of land to avail the loan, but, once having come to know about the mistake and error he had made all efforts to rectify it. Meanwhile, the Bank has initiated SARFAESI proceedings and after clearing the entire debts, the property is now free from encumbrance and therefore no reasons to prosecute him any further.

5. This Court after considering the submissions is of the view that whether the mortgage of the entire property was done with dishonest intention or matter for the trial court to appreciate. The facts prior to the occurrence and subsequent to be examined to arrive at proper decision after examining the witness.

6. Therefore, the petition in Crl.OP.No.8326 of 2024 to quash the C.C.No.345 of 2023 on the file of Judicial Magistrate, Avinashi is hereby dismissed.



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7. The petition in Crl.OP.No.8103 of 2024 is allowed with direction to the learned Judicial Magistrate-IV, Tiruppur, to take note of the fact that the alleged crime has occurred in the year 2014 and the damage caused to the complainant has been effaced by the accused in the year 2017. Therefore, the trial shall be expedited and completed within a period of 90 days from the date of receipt of a copy of this order.

6. The learned counsel for the accused submits that the accused is a cancer patient and his physical appearance before the court may be dispensed with. The plea is taken note. The trial Court shall consider the prayer of dispense with the personal appearance and pass orders as per law. Consequently, the connected miscellaneous petitions are closed.

Vv

03.04.2024

To

1. The Judicial Magistrate-IV,
Tiruppur
2. The Inspector of Police,
District Crime Branch,
Tiruppur, Tiruppur District.
3. The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

Vv

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