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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
Criminal Jurisdiction

Monday, the First day of July Two Thousand and Twenty Four

PRESENT

Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD). No.2196 & 2197 of 2024

in

CRL OP(MD).No.16836 & 15476 of 2017

1. K.Soundarrajan

2. Sundaramoorthy @ Sundarasamy

... Petitioners/Petitioners/Petitioners / Accused  
1 and 3 (in CRL MP(MD). No.2196 of 2024)

1. Dr.Kanmani Joan of Arch

2. K.Thiyagarajan

... Petitioners/Petitioners/Petitioners /  
Accused 2 and 4  
(in CRL MP(MD). No.2197 of 2024)

Vs

1 The Inspector of Police,  
CCB Crime,  
Cantonment,  
Trichy  
Crime No.49/2017.

2 Poomalai

...Respondents No.1 and 2/.Respondents No.1  
and 2/Defacto Complainant

3 R.Periyasamy

...3<sup>rd</sup>Respondent/3<sup>rd</sup> Respondent/NIL/5<sup>th</sup> Accused  
(in both cases)



**Common Prayer:-**

Criminal Miscellaneous Petition under Section 482 of CPC.,to Modify the order in Crl MP(MD) No.4764 & 4767/2023 dated.11.12.2023 in Crl OP(MD) No.16836 & 15476/2017 respectively and consequently direct the respondent No.1 to file charge sheet without arraying the petitioners as accused in view of the payment made by them.

**Prayer in CRL OP(MD).No.16836 of 2017:-**

Criminal Original Petition filed under Section 482 of the code of Criminal Procedure,to call for the record of in Crime No.49 of 2017 on the file of the 1st Respondent and quash the same as devoid of merits as against the petitioner.

**Prayer in CRL OP(MD). 15476/ 2017 :**

Criminal Original Petition filed under Section 482 of the code of Criminal Procedure,to call for the record of in Crime No.49 of 2017 on the file of the 1st Respondent and quash the same as devoid of merits as against these petitioners.

ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. T.Mohan For A.Maja Mohideen , Advocate for the Petitioner(in both cases)and of Mr. R.Muniyapparaj APP For First Respondent(in both cases),this Court made the following order:

When the matter came up for hearing on 21.6.2024, this Court passed the following order:

When the matter came up for hearing on 29.4.2024, this Court

<https://www.mhc.tn.gov.in/judis> passed the following order:



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These petitions are filed by the petitioners seeking to modify the common order dated 11.12.2023 passed in CrI.M.P.(MD) Nos.4764 & 4767 of 2023 in CrI.O.P.(MD) Nos.16836 & 15476 of 2017 respectively.

2. Heard the learned Senior Counsel appearing on behalf of the petitioners and the learned Additional Public Prosecutor appearing for the first respondent.

3. CrI.O.P.(MD) Nos.15476 & 16836 of 2017 were filed seeking to quash the first information report in Crime No.49 of 2017 on the file of the first respondent. During the pendency of the said quash petitions, the matters were referred to the Mediation Centre and the parties were able to come to some understanding. Further, a portion of the amount was also settled by the petitioners to the de-facto complainant. Hence, the said quash petitions were disposed of by a common order dated 13.9.2022 along with CrI.O.P.(MD) No.16834 of 2017 granting some time to the petitioners to settle the balance amount to the defacto complainant.

4. As the balance amount was not settled by the petitioners within the time limit fixed by this Court in the above quash petitions,



the petitioners filed Crl.M.P.(MD) No.4764 & 4767 of 2023 seeking for extension of time to comply with the said common order dated 13.9.2022 passed in the above quash petitions. This Court also, by a common order dated 10.11.2023, extended time by four weeks. Thereafter, the matters came up for hearing on 11.12.2023. At that point of time, it was informed that the accused persons did not come forward to settle the entire balance amount. This Court was not satisfied with this explanation offered on behalf of the petitioners and therefore, directed the first respondent - police to proceed further with the investigation and complete the investigation within a period of three months. Now, Crl.M.P.(MD) No.2196 & 2197 of 2024 have been filed by the respective petitioners seeking to modify the common order dated 11.12.2023 on the ground that they made a payment of Rs.57,00,000/- in total to the de-facto complainant subsequently.

5. When the matters are taken up for hearing today, the learned Additional Public Prosecutor appearing on behalf of the first respondent has produced a hand written statement of the second respondent/de-facto complainant - Mr.M.Poomalai. On going through the same, it is seen that the de-facto complainant received a total sum of Rs.74,00,000/- from the petitioners.



6. According to the de-facto complainant, the accused persons are yet to comply with the undertaking given by them and therefore, he wants the criminal proceedings to be continued against the petitioners.

7. The learned Additional Public Prosecutor appearing on behalf of the first respondent, on instructions, has submitted that it is only Clause (8) of the terms of memorandum of understanding, which now stands in the way of the compromise between the parties.

8. For proper appreciation, Clause (8) of the memorandum of understanding is extracted as hereunder :

"மேற்படி ஒப்பந்தம் எவ்வித காலதாமதமுமின்றி நிறைவேற்றப்பட்டதற்கு பின்பு 1வது பார்ட்டியின் பேரில் ஏற்படுத்திக் கொடுக்கப்பட்ட மேற்கண்ட கிரைய ஆவணங்கள் மற்றும் பொறுப்புரிமை ஆவணங்கள் அனைத்தும் 1வது நபரால் ரத்து செய்து கொடுக்கப்படும். மேற்படி ஆவண ரத்திற்கு உண்டான செலவு தொகைகளை 2, 3 நபர்களே செய்து வரவேண்டியது."

9. Apart from the above, the civil suit filed by the de-facto complainant is also pending in O.S.No.300 of 2023 before the Third Additional District Court, Trichy.

10. The learned counsel for the second respondent/de-facto complainant was not present at the time of hearing during the



previous hearing on 26.4.2024. Even today, none appears for the second respondent/de-facto complainant.

11. The learned counsel on record for the petitioners shall get clarity with respect to Clause (8) of the memorandum of understanding and report before this Court during the next date of hearing. Based on the same, final orders will be passed in these petitions also.

12. Post on 03.6.2024.

2.The learned Senior Counsel appearing on behalf of the petitioners submitted that in order to comply with Clause (8) of the memorandum of understanding, the petitioners were always willing to co-operate for the cancellation of the document and also bear the stamp duty and other expenses. However, neither the power of attorney nor the principal is coming forward for the registration of the cancellation of the documents. The learned Senior Counsel further submitted that whatever charges are incurred towards stamp charges will be paid by the petitioners.



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3. For the last three hearings, there has been no representation on the side of the de facto complainant. The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that the said M. Poomalai will be brought before this Court during the next date of hearing and in her presence, final orders can be passed in these petitions.

4. In the light of the specific stand taken by the petitioners, there shall be a direction to the de facto complainant to be present before this Court during the next date of hearing and on that day, this Court will issue further directions to facilitate the registration of the cancellation of documents and for payment of the necessary charges to undertake that exercise.

5. Post these petitions on 1.7.2024 at 2.15 pm.

2. Today when the matter was taken up for hearing, the de facto complainant was present before the Court and he was represented through a counsel. The learned counsel submitted that already a suit has been filed by the de facto complainant and the same is pending in O.S.No.300 of 2023, before the III Additional District Court, Trichy and that any orders passed in this petition should



be without prejudice to the rights of the de facto complainant in prosecuting the civil suit that is pending before the competent civil court.

3. In the light of the specific stand that has been taken by the de facto complainant, the following clarifications are issued:

(a) It is left open to the parties to present the cancellation documents before the registering authority and the entire expenses shall be incurred by the petitioners; and

(b) The criminal case is closed without prejudice to the right of the de facto complainant to prosecute the pending civil suit in O.S.No.300 of 2023, before the III Additional District Court, Trichy.

4. In the light of the above clarifications, the FIR in Crime No.49 of 2017, pending on the file of CCB Trichy City (Crime Branch) for offence u/s.120(b), 406, 419, 465, 468, 471 and 420 IPC, is quashed.

These criminal miscellaneous petitions are disposed of accordingly.

Sd/-

Assistant Registrar ( CS-III )

// True Copy //

/07/2024

Sub Assistant Registrar  
(CS - I/ II / III / IV)



1. The Judge,  
The III Additional District Court,  
Trichy.
2. The Inspector of Police,  
CCB Crime,  
Cantonment,  
Trichy.
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

Copy to:

The Section Officer,  
Criminal Section,  
Madurai Bench of Madras High Court, Madurai

+ 1CC to Mr.AHaja Mohideen,Sr.31502.

ORDER DATED : 01/07/2024

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ORDER

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CRL MP(MD). No.2196 & 2197 of 2024  
in  
CRL OP(MD).No.16836 & 15476 of 2017

RE (29.07.2024) 9P/ 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.