



CRL OP(MD). No.4314 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Criminal Original Jurisdiction

Monday, the Twenty Ninth day of April Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.4314 of 2024

V.Chandra

... Petitioner

-Vs-

1 The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.

2 The Inspector of Police
Office of the Inspector of Police,
District Crime Branch,
Madurai District.

3 M.Malarvizhi

(3rd Respondent is Impleaded as Per Order of this
Court dated.22.03.2024 in Crl.Mp(MD)No.3648 of 2024 in
Crl OP(MD)No.4314 of 2024)

... Respondents

Prayer :-

Criminal Original Petition filed Under Section 482 of Cr.P.C., to direct the
respondent no.2 for not to harass the petitioner by intervening into subject matter of
civil dispute in accordance with law within the time stipulated by this honble court
and pass such further or other orders



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ORDER:-
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This Criminal Original Petition coming under the caption “ For Being Mentioned” on this day and upon perusing the petition and the earlier Order of this court dated 10.04.2024 in CRL OP(MD). No.4314 of 2024 and the affidavit filed in support thereof and upon hearing the arguments of Thiru./Ms. R.Alagumani, Advocate for the Petitioner and of Thiru./Ms. Mr.P.Kottaichamy, Govt.Advocate (Crl.Side), on behalf of the 1st and 2nd Respondents and of Mr.V.Thirumal, Advocate for the 3rd Respondent, this Court made the following order:

"The petitioner has filed this petition that the respondent Police is harassing her under the guise of enquiry.

2. It appears that one M.Malarvizhi, the defacto complainant has filed a petition in Crl.M.P.(MD)No.3648 of 2024 to implead herself as a party in this petition. This Court, by order dated 22.03.2024 impleaded the said M.Malarvizhi as the 3rd respondent in this petition. Thereafter, this Court, by order dated 10.04.2024 disposed of this petition, based on the submissions made by the learned Government Advocate (Crl. Side) that they have conducted the petition enquiry in current paper No.G5-469-1183-2024 and closed the same on 09.02.2024.

3. Mr.Thirumal, learned counsel for the the 3rd respondent/defacto complainant has represented before this Court that his name has not been printed in



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the cause list and therefore, he is not in a position to submit his arguments before this Court. Hence, he insisted this Court to list this matter under caption "For Being Mentioned".

4. In view of the said representation, this petition is listed today before this Court under the caption "For Being Mentioned".

5. The learned counsel for the 3rd respondent/intervenor submits that the 3rd respondent had entered into a sale agreement with the petitioner to purchase a landed property to an extent of 1 acre 50 cents on 27.02.2021, for which, the petitioner has received a sum of Rs.12 lakhs as advance and subsequently, the petitioner has also received a sum of Rs.3,40,000/- from the 3rd respondent and totally, a sum of Rs.15,40,000/- was received by the petitioner. But, the petitioner has not executed the sale deed, by giving false reasons to the 3rd respondent and she prolonged the process of execution of sale deed.

6. The learned counsel appearing for the 3rd respondent further submits that the petitioner has sold the said property to another person on 04.08.2021 and assured the 3rd respondent that she would execute the sale deed with regard to another property in Patta No.767 around 59 cents. Even though the 3rd respondent has accepted the said offer and she was ready with the sale deed for the property in Patta No.767, the petitioner has not executed the sale deed with an intention to cheat



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the 3rd respondent. Therefore, the 3rd respondent has preferred a complaint against the petitioner.

7. The learned counsel for the 3rd respondent further submits that a summon was issued by the Inspector of Police, District Crime Branch, Madurai, under Section 41(A)/160/91 Cr.P.C. on 04.03.2024 calling upon the 3rd respondent for enquiry on 12.03.2024. While so, the respondent police reported before this Court that the petition enquiry was closed on 09.02.2024 itself.

8. It appears that the 3rd respondent, based on the unregistered sale agreement, is said to have paid a sum of Rs.15,40,000/- in the year 2021 and without filing a suit for specific performance, has approached the police by lodging a criminal complaint. This is purely civil in nature. As per the police standing orders, the Police is not expected to involve in a civil matter. However, the complaints are entertained and enquiries are conducted even in a civil dispute.

9. In this case, the complaint of the 3rd respondent dated 09.02.2024 was duly forwarded by the Superintendent of Police, Madurai, to the Inspector of Police, District Crime Branch, Madurai for conducting enquiry. The Inspector of Police, District Crime Branch, Madurai, has conducted a petition enquiry and managed to get a sum of Rs.4 lakhs from the petitioner.



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10. From the typed set of papers, it appears that the respondent Police has issued a summon under Section 41(A)/160/91 Cr.P.C. to the 3rd respondent. The power of issuing summon under the above said provision would arise only, if a case is registered under Section 154 Cr.P.C. The Police is not having a power to conduct enquiry without registering a case under Section 154 Cr.P.c. However, on the guidelines issued by the Supreme Court in Lalitha Kumari's case, the petition enquiry can be conducted before registering the case in certain cases like, matrimonial dispute, money dispute and civil dispute and that too within a period of 15 days and the investigating officer has to take steps within a period of 15 days.

11. In this case, it appears that since it is a civil dispute, the Inspector of Police, District Crime Branch, Madurai, has closed the complaint on 09.02.2024.

12. Further, under Section 362 Cr.P.C, once an order has been passed, this Court cannot alter any order and the same is extracted as under:

“362. Court not to alter judgment.

- Save as otherwise provided by this Code or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error.”



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However, it can be corrected if there is any clerical mistake or any error committed in the order.

13. The learned counsel for the 3rd respondent/defacto complainant, without ascertaining the same, has made a representation and also wasted the Court's time. Therefore, this Court directs the 3rd respondent to pay a sum of Rs.5,000/- to the credit of Current Account No. 7567821433, (IFSC Code: IDIBI000H040), in the Indian Bank, High Court Branch, Madurai Bench of Madras High Court, Madurai, towards Kalaignar Centenary Library.

Sd/-

Assistant Registrar (CO)

// True Copy //

/09/2024

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

OGY

TO

1. The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.
2. The Inspector of Police,
Office of the Inspector of Police,
District Crime Branch
Madurai District.



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3. M.Malarvizhi

W/o.Muniyandi,
D No.408/13 Thalambu Street,
Pama Nagar, Thiruppalai,
Madurai.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

Copy to:

1. Mr.V.Thirumal,(En.No.1563/2003),
Advocate,
No.73, Law Chambers,
Madurai Bench of Madras High Court,
Madurai.

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

3. The Officer Incharge,
Kalaingnar Centenary Library,
Madurai.



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ORDER DATED : 29/04/2024

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ORDER
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Giving direction and etc.
as stated within.

SL(19.09.2024)/ 8P/ 8C

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