



Crl.O.P.(MD)Nos.22693 and 22526 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **28.03.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) Nos.22693 and 22526 of 2022
and
Crl.M.P.(MD)Nos.16048 and 15926 of 2022

Crl.O.P.(MD)No.22693 of 2022

1.Kavitha

2.P.Sivakumar

3.Dhanapal

... Petitioners

Vs.

1.State of Tamil Nadu,
The Inspector of Police,
Oddanchatram Police Station,
Dindigul District.

2.Jeyakrishnan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the proceedings in Crime No. 422 of 2022 on the file of the Inspector of Police, Oddanchatram Police Station, Dindigul District and quash the same.

Crl.O.P.(MD)No.22526 of 2022

1.Kavitha

2.Dhanapal

3.P.Sivakumar

... Petitioners/A1 to A3



Crl.O.P.(MD)Nos.22693 and 22526 of 2022

Vs.

1.State of Tamil Nadu,
The Inspector of Police,
District Crime Branch,
Dindigul District.

2.Jeyakrishnan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the proceedings in Crime No.45 of 2021 on the file of the Inspector of Police, District Crime Branch, Dindigul District and to quash the same.

In both petitions:

For Petitioners : Mr.Y.Prakash

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor for R1

No Appearance for R2

COMMON ORDER

Crl.O.P.(MD)No.22693 of 2022 has been filed to quash the FIR in Crime No.422 of 2022 on the file of the first respondent police; and Crl.O.P.(MD)No.22526 of 2022 has been filed to quash the FIR in Crime No.45 of 2021 on the file of the first respondent police.

2.Initially, the second respondent/defacto complainant lodged a complaint against the petitioners on 18.12.2021 before the District Crime Branch and the same was registered in Crime No.45 of 2021. On the very



same set of allegations, the second respondent made another complaint before the Inspector of Police, Oddanchatram Police Station on 20.08.2022 and the same was registered in Crime No.422 of 2022.

3.Since the issue involved in both the cases are one and the same, these petitions are disposed of by this common order.

4.The case of the prosecution is that the petitioners entered into a sale agreement with the second respondent on 30.05.2011 and agreed to sell their residential property situated in Palakanuthu Village, Semmadaipatti, Dindigul District and they received a sum of Rs.13,00,000/- from the second respondent as sale consideration. Later, the second respondent came to know that the very same property was mortgaged by the petitioners by obtaining housing loan from the State Bank of India. Suppressing the same, they executed a sale agreement in favour of the second respondent. However, the sale agreement was not honoured. Thereby, the second respondent lodged two complaints against the petitioners, one before the District Crime Branch, Dindigul and another before the Inspector of Police, Oddanchatram Police Station, Dindigul. Challenging the same, these petitions have been filed.



5.The learned counsel for the petitioners would submit that for the very same allegations, in the years 2014 and 2015, the second respondent made two complaints before the very same police authority. After enquiry, the same was closed. Subsequently, on the same set of allegations, the second respondent filed two complaints before the District Crime Branch, Dindigul and the Inspector of Police, Oddanchatram Police Station, Dindigul in Crime Nos.45 of 2021 and 422 of 2022, dated 18.12.2021 and 20.08.2022. He would further submit that in the complaints, he claimed that immediately after the sale agreement, the possession was handed over to him and on that basis, the second respondent filed a suit in O.S.No.577 of 2015 and the same was dismissed on 08.06.2017 for non-appearance and till date that was not restored. Even assuming that the complaints are true, the second respondent has to file a suit for specific performance before the competent civil forum instead of filing the complaints before the Police officials and the said matter is also squarely covered by the Hon'ble Apex Court in *State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)*.

6.Though the second respondent's name was printed in the cause list, no one has appeared on behalf of him.



WEB COPY

7.The learned Additional Public Prosecutor would submit that in 2014 and 2015, the second respondent filed two complainants before the Police officials and the same was closed as 'civil in nature' and once again the second respondent filed two complaints before the District Crime Branch, Dindigul and the Inspector of Police, Oddanchatram Police Station, Dindigul with the same set of allegations. However, the enquiry will be completed in the manner known to law and appropriate orders will be passed.

8.Admittedly, the second respondent filed two complaints in the years 2014 and 2015 and the same was closed as 'civil in nature' and once again, on the very same allegations, he filed two complaints before the District Crime Branch, Dindigul and the Inspector of Police, Oddanchatram Police Station, Dindigul. Since the dispute between the parties is purely civil in nature, it has to be ventilated only before the civil Court, instead of filing complaints before the police officials, which is not a sustainable one. Hence, this Court is inclined to quash the First Information Reports in Crime No.45 of 2021 and 422 of 2022 in respect of the petitioners alone.



Crl.O.P.(MD)Nos.22693 and 22526 of 2022

9.In view of the above, the First Information Reports in Crime No.

45 of 2021 and 422 of 2022, are hereby quashed in respect of the

petitioners alone and these Criminal Original Petitions stand allowed.

Consequently, connected miscellaneous petitions are closed.

28.03.2024

Index : Yes/No

Internet : Yes/No

NCC : Yes/No

Sji

To

- 1.The Inspector of Police,
Oddanchatram Police Station,
Dindigul District.
- 2.The Inspector of Police,
District Crime Branch,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)Nos.22693 and 22526 of 2022

M.DHANDAPANI. J.

Sji

Crl.O.P.(MD)Nos.22693 and 22526 of 2022

28.03.2024