



CRL MP(MD). No.5200 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Tuesday, the Twenty Fifth day of June Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD). No.5200 of 2024

in

CRL OP(MD) No.2507 of 2023

R.Pethalraj ... Petitioner/3rd Respondent

Vs

1 V.Suresh ... 1st Respondent/Petitioner

2 The Superintendent of Police
Virudhunagar District,
Virudhunagar.

3 The Inspector of Police
Srivilliputtur Town Police Station,
(Crime Branch)
Virudhunagar District.

... Respondents 2 & 3/Respondents No.1 & 2

Prayer in CRL MP(MD). No.5200 of 2024

Criminal Miscellaneous Petition filed under section 482 of Cr.p.c to recall the order in Crl O.P (MD) No. 2507 of 2023 dt. 08.02.2023 on the file of the Hon'ble court and pass such further or other orders



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Prayer in CRL OP(MD). 2507/ 2023 :

Criminal Miscellaneous Petition filed under section 482 of Cr.p.c to direct the 2nd respondent not to harass the petitioner and his family members under the guise of enquiry based on the petitioners representation dated 01.02.2023 and act in accordance with law .

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.S.M.Anantha Murugan, Advocate for the Petitioner and of Mr.M.Jothi Basu, for the 1st Respondent and of M/s.M.Asha, Government Advocate (Crl.side) for the 2nd and 3rd Respondents, this Court made the following order:

The Criminal Miscellaneous Petition has been filed seeking orders to recall the order, dated 08.02.2023 passed in Crl.O.P(MD)No.2507 of 2023 by this Court.

2. The first respondent herein has filed the Criminal Original Petition invoking Section 482 of the Code of Criminal Procedure, directing the third respondent not to harass him and his family members under the guise of enquiry in Crl.O.P.(MD) No.2507 of 2023. When the above petition was taken up for hearing on 08.02.2023, the learned Government Advocate (Criminal Side) submitted that the petitioner herein has given a complaint and the same was pending for enquiry and that since there existed money dispute between the parties, instructions were already given to close the complaint. Recording the submission made by the learned Government



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Advocate (Criminal Side), the petition in CrI.O.P.(MD)No.2507 of 2023, was ordered to be disposed of, on 08.02.2023.

3. The main contention of the petitioner is that in pursuance of the order passed by this Court in CrI.O.P.(MD)No.2507 of 2023, the complaint filed by the petitioner's wife was closed without any enquiry. It is the case of the petitioner that the first respondent obtained money from the petitioner's wife S.Esther Stella Rani through bank transactions and by person to the tune of Rs.12,75,000/- with an undertaking that he would return the money within short span of time and that since the first respondent has failed to pay the amount, the petitioner's wife was constrained to lodge a complaint before the third respondent and the third respondent, after the receipt of the complaint, has issued receipt in CSR.No.19 of 2023, dated 09.01.2023.

4. When the above petition was taken up for enquiry on 18.06.2024, the learned Government Advocate (Criminal Side) appearing for the State submitted that subsequent to the disposal of the criminal original petition, the petitioner's wife has filed a petition under Section 156(3) Cr.P.C., before the jurisdictional Magistrate Court i.e., the Judicial Magistrate Court No.II, Srivilliputhur and that the learned Magistrate considering the contents of the complaint and the documents filed along with the complaint has come to a decision that the dispute is of civil in nature,



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dismissed the petition.

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5. It is pertinent to note that the petition in Cr.M.P.No.6531 of 2023, under Section 156(3) Cr.P.C., was not dismissed by the jurisdictional Court in pursuance of the order passed by this Court in CrI.O.P.(MD)No.2507 of 2023, but on the other hand, the learned Magistrate taking note of the arguments made by the petitioner's counsel and the records produced, has specifically observed that there is no basis in the allegation that the petitioner was threatened by the accused; that the dispute is of civil in nature and that the petitioner therein has been attempting to give a criminal color to the civil dispute, dismissed the petition.

6. It is not the case of the petitioner that they have preferred a revision challenging the order passed by the Magistrate in Cr.M.P.No.6531 of 2023. Even after the dismissal of the petition under Section 156(3) Cr.P.C., the petitioner is still having right to file a private complaint before the jurisdictional Court.

7. Considering the facts and circumstances of the case, this Court is of the view that there is no basis to recall the order passed in CrI.O.P.(MD)No.2507 of 2023 and even if it is recalled, no purpose would be served.



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8. In the result, the Criminal Miscellaneous Petition is dismissed. The petitioner is at liberty to file private compliant before the jurisdictional Magistrate Court, if so advised.

Sd/-

Assistant Registrar (C.S.II)

// True Copy //

/08/2024

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

das

TO

1. The Superintendent of Police
Virudhunagar District Virudhunagar.
2. The Inspector of Police
Srivilliputtur Town Police Station,
Crime Branch, Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 cc to Mr.S.M.Anantha Murugan, Advocate, CA Sr.No30058/2024



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ORDER DATED : 25/06/2024

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ORDER

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in

CRL OP(MD) No.2507 of 2023

Giving direction and etc.
as stated within.

SL(01.08.2024)/ 6P/ 5C

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