



Crl.O.P.Nos.19830 of 2023 & 1224 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 25.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.Nos.19830 of 2023 & 1224 of 2024

Crl.M.P.Nos.13416 of 2023 & 888 of 2024

Crl.O.P.No.19830 of 2023:-

1. Mohamed Mubarak
2. Najmul Alam
3. Shiek Mohammad
4. Shafiudeen

... Petitioners

Vs.

1. The State Rep. by
Sub Station Officer,
Villianur P.S.,
Through Public Prosecutor,
Puducherry.

2. YMA Jinna
3. Rasoul Malimar
4. F.Chafiudine
- N.M.Farouk (Deceased)
5. R.Riazouddine
6. Ubaidur Rahman

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C., to call for the records in Crl.R.P.11 of 2021 in M.C.No.50 of 2021 dated 20.09.2022 on the file of the II Additional Sessions Judge, Puducherry and set aside the same as illegal and without jurisdiction.

For Petitioners : Mr.I.Abdul Bastih



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Crl.O.P.Nos.19830 of 2023 & 1224 of 2024

For Respondents

For R1 : Mr.K.S.Mohandass
Public Prosecutor (Puducherry)

For R2 to R6 : Mr.M.Rajasekar

Crl.O.P.No.1224 of 2024:-

1. YMA Jinna
2. Rasoul Malimar
3. F.Chafiudine
4. N.M.Farouk
5. R.Riazouddine
6. Ubaidur Rahman

... Petitioners

Vs.

1. The State through S.H.O.,
Villianur P.S.,
Through Public Prosecutor,
Puducherry.

2. Mohamed Mubarak
3. Najmul Aalam
4. Shiek Mohammad
5. Shafiudeen

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C., to call for the records in Crl.R.P.11 of 2021 dated 20.09.2022 on the file of the II Additional Sessions Judge, Puducherry, in M.C.No.50 of 2021 dated 01.07.2021 on the file of the learned Sub-Divisional Magistrate Court at Villianur and quash the same.

For Petitioners : Mr.M.Rajasekar

For Respondents

For R1 : Mr.K.S.Mohandass
Public Prosecutor (Pondy)

For R2 to R5 : Mr.I.Abdul Bastih

COMMON ORDER



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Both the Criminal Original Petitions have been filed challenging the order dated 20.09.2022, passed by the learned II Additional Sessions Judge, Puducherry, in Crl.R.P.11 of 2021, confirming the order dated 01.07.2021 passed by the learned Sub-Divisional Magistrate, Villianur in M.C.No.50 of 2021, thereby directing the Tahsildar, Villianur to attach the rented out constructed part of the ground floor excluding the veranda and other common area of the building situated in R.S.No.131/6 to the trial Court, by way of sealing with the assistance of the Station House Officer, Villianur Police Station. Further the Tahsildar, Villianur was appointed as a receiver of the attached property until further orders by the trial Court and both the parties are directed to approach the competent civil Court to resolve the rental issue between them. Further parties are directed to maintain peace and tranquillity in the area and not to enter the attached property by any means so as to provoke or incite any unwarranted quarrel thereby.

2. The petitioners in Crl.O.P.No.18830 of 2023 are the tenants (hereinafter called as “tenants”) and the petitioners in Crl.O.P.No.1224 of 2024 are the landlords (hereinafter called as “landlords”) for the premises situated in the ground floor of the building in R.S.No.131/6, at No.6,



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Islamia Nagar, Sulthanpet, Villianur, Pondicherry (hereinafter called as

“subject property”). On the complaint lodged by the landlords, the first respondent registered a FIR in Crime No.22 of 2021 for the offences punishable under Sections 294(b), 324, 427 & 34 of IPC. After registration of FIR, the first respondent referred the complaint before the Sub Divisional Magistrate, Villianur, under Section 145 of Cr.P.C., in connection with the dispute of claiming right over the ground floor of the building in the subject property.

3. The Sub Divisional Magistrate conducted enquiry and passed order thereby directing the Tahsildar, Taluk Office, Villianur, to attach the subject property by way of sealing and also appointed the Tahsildar as receiver of the attached property. Further, both the parties were directed to approach the Civil Court in respect of the subject property to resolve the rental issue between them and were also directed to maintain peace and tranquillity in the area. Aggrieved by the same, the tenants filed a revision petition before the learned II Additional Sessions Judge, Puducherry, in Crl.R.P.No.11 of 2021 and the same was also dismissed by confirming the order passed by the Sub Divisional Magistrate, Villianur. Against the said order, both the tenants as well as the landlords



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filed the present petitions.

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4. The learned counsel appearing for the tenants submitted that admittedly there is a landlord-tenant issue and as such the tenants had already filed suit as against the landlords in O.S.No.491 of 2021 for permanent injunction restraining the landlords, his henchmen and agents from encumbering and dealing with the subject property, on the file of the learned II Additional District Munsif, Pondicherry. There is absolutely no circumstances warranting the first respondent to refer the FIR for initiation of proceedings under Section 145 of Cr.P.C. That apart, the Sub Divisional Magistrate has no authority or power to deal with the landlords-tenants dispute. In pursuant to the said order, the tenants have been thrown out from the premises and the premises is under lock and seal. Once the civil Court has seized the matter, the Sub Divisional Magistrate has no jurisdiction to initiate proceedings under Section 145 of Cr.P.C.



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5. The learned counsel appearing for the landlords submitted that even as per the order passed by the Sub Divisional Magistrate, the Tashildar was only directed to seal the rented out ground floor of the premises excluding the veranda and other common area, which is under occupation of the tenants. However, the Tahsildar sealed out the entire premises as such, the landlords are not able to access the ground floor of the premises for other purposes.

6. The learned Public Prosecutor (Puducherry) appearing for the first respondent police submitted that only on the complaint lodged by the landlords, it was referred to the Sub Divisional Magistrate for initiation of proceedings under Section 145 of Cr.P.C. After due enquiry, the Sub Divisional Magistrate ordered to seal the premises for the reason that there was a situation to disturb the public peace and tranquillity by the landlords and tenants.

7. Heard the learned counsel appearing on either side and perused the materials placed before this Court.



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8. Admittedly it is a landlord-tenant dispute between the parties. In fact, on the complaint lodged by the landlords, the first respondent registered the FIR in Crime No.22 of 2021 for the offences punishable under Sections 294(b), 324, 427 & 34 of IPC, which has nothing to do with the proceedings initiated under Section 145 of Cr.P.C. The first respondent mechanically referred the matter for initiation of proceedings under 145 of Cr.P.C., before the Sub Divisional Magistrate. On perusal of the FIR, it is revealed that it never confers any circumstances to initiate proceeding under Section 145 of Cr.P.C.

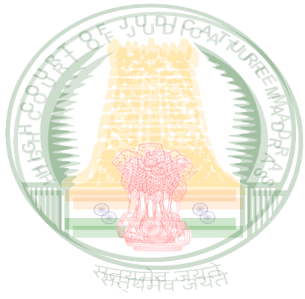
9. That apart, already the tenants filed suit in O.S.No.491 of 2021 on the file of the learned II Additional District Munsif, Puducherry, for permanent injunction restraining the landlords from vacating the tenants from the premises without due process of law and it is pending. When the civil suit is pending, the Sub Divisional Magistrate has no jurisdiction to initiate any proceedings under Section 145 of Cr.P.C. Unfortunately, the revisional Court viz., the learned II Additional Sessions Judge, Puducherry, without considering the above facts and circumstances mechanically dismissed the revision and confirmed the order passed by the Sub Divisional Magistrate, Puducherry in M.C.No.50



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of 2021. Further there is no complaint from the general public with regard to disturbance in peace and tranquillity in the area by the landlords or the tenants. Therefore, nothing warrants the initiation of proceedings under Section 145 of Cr.P.C., by the Sub Divisional Magistrate.

10. In view of the above discussions, the impugned proceedings cannot be sustained and is liable to be dismissed. Accordingly, both the orders dated 20.09.2022, passed by the learned II Additional Sessions Judge, Puducherry, in Crl.R.P.11 of 2021, and the order dated 01.07.2021 passed by the learned Sub-Divisional Magistrate Court at Villianur in M.C.No.50 of 2021, are hereby quashed. The Tahsildar, Taluk Office, Villianur, is directed to open the seal and remove the lock and seal and also hand over the vacant possession of the ground floor of the building at R.S.No.131/6, situated at No.6, Islamia Nagar, Sulthanpet, Villianur, Pondicherry, to the tenants forthwith. The landlord is permitted to use the veranda and other common area in the ground floor of the building. Further the landlords are at liberty to approach the appropriate forum as against the tenants for appropriate relief in the manner known to law, if so advised.



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11. With the above directions, both the Criminal Original

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Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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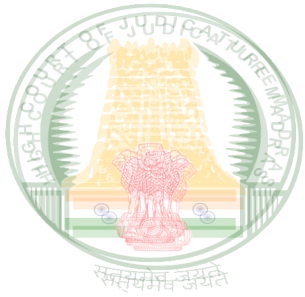
To

1. The II Additional Sessions Judge,
Puducherry.

2.The Sub-Divisional Magistrate Court,
Villianur

3. The Sub Station Officer,
Villianur P.S.,
Puducherry.

4. The Public Prosecutor,
Madras High Court,
Chennai.



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