



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28-11-2025

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THE HONOURABLE MRS JUSTICE S.SRIMATHY

CRL OP(MD) NO. 11696 of 2023

1. P.Anbalagan

2. A.VENKATESH PRABU

Petitioner(s)

Vs

1. The Inspector of Police
District Crime Branch Police Station
Virudhunagar
(Crime NO.5 of 2023)

2. Manikandan

Respondent(s)

For Petitioner(s): Mr.T.Lajapathi Roy, Senior Counsel
for M/s.Lajapathi Roy and Associates

For Respondent(s): Mr.A.S.Abul Kalaam Azad,
Government Advocate (Crl.side) for R1
Mr.A.Prasanna Rajadurai for R2

Prayer:

To call for the records pertaining to the impugned First Information Report in Crime No.5 of 2023 on the file of the respondent police dated 12.04.2023 and to quash the same as illegal.

ORDER

The present petition is filed to quash the First Information Report in Crime No.5 of 2023 on the file of the respondent police dated 12.04.2023

2.Admittedly, the defacto complainant and the the petitioners were running a



partnership firm and there are related as cousins. There is a dispute in running the partnership firm and already there are several suits. The suit in O.S.No.187 of 2019 on the file of Principal District Court, Madurai, is filed with a prayer for declaration which has been transferred to the file of the Additional District Judge, Virudhunagar and renumbered as O.S.No.8 of 2022 and the same was dismissed for default. Pending the said suit, the defacto complainant filed another suit in O.S.No.140 of 2019 on the file of the Principal District Judge, Srivilliputhur at Virudhunagar, which has been transferred from to the Additional District Judge, Aruppukottai at Virudhunagar and renumbered as O.S.No.4 of 2020 for the same prayer, ie., suit for declaration. The said suit was contested by the parties. After perusing the evidence and the depositions, the prayer of the defacto complainant was declined and the suit was dismissed on 18/12/2024 against which there is no appeal as on date.

3.The learned Counsel appearing for the defacto complainant submitted that he would restore O.S.No.8 of 2022. But this court is afraid whether the suit can be maintained, since for the same prayer O.S.No.4 of 2020 was considered on merits and dismissed. Therefore, the said contention of the defacto complainant cannot be accepted.

4.Now, the question arises, when the defacto complainant has filed the suit by relying to the retirement deed dated 01/04/2016 and now can he decline the execution of the said retirement deed for the criminal case. For which, the learned Senior Counsel appearing for the petitioners relied on the judgment rendered by the Honourable



Supreme Court in the case of ***Cauvery Coffee Traders, Mangalore Vs. Hornor Resources (International) Company Limited***, reported in ***(2011) 10 Supreme Court***

Cases 420. The relevant portion of the judgment is extracted hereunder:

"26. A party cannot be permitted to "blow hot and cold", "fast and loose" or "approbate and reprobate". Where one knowingly accepts the benefits of a contract or conveyance or an order, is estopped to deny the validity or binding effect on him of such contract or conveyance or order. This rule is applied to do equity, however, it must not be applied in a manner as to violate the principles of right and good conscience. (Vide: Nagubai Ammal & Ors. v. B. Shama Rao & Ors., AIR 1956 SC 593; C.I.T. Vs. MR. P. Firm Maur, AIR 1965 SC 1216; Maharashtra State Road Transport Corporation v. Balwant Regular Motor Service, Amravati & Ors., AIR 1969 SC 329; P.R. Deshpande v. Maruti Balaram Haibatti, AIR 1998 SC 2979; Babu Ram v. Indrapal Singh, AIR 1998 SC 3021; Chairman and MD, NTPC Ltd. v. Reshmi Constructions, Builders & Contractors, AIR 2004 SC 1330; Ramesh Chandra Sankla & Ors. v. Vikram Cement & Ors., AIR 2009 SC 713; and Pradeep Oil Corporation v. Municipal Corporation of Delhi & Anr., (2011) 5 SCC 270)."

He also relied on another judgment rendered by the Hon'ble Supreme Court in the case of ***V.Chandrasekaran and another Vs. Administrative Officer and others*** reported in ***(2012) 12 Supreme Court Cases 133*** wherein the judgment of Cauvery Coffee Traders, Mangalore Vs. Hornor Resources (International) Company Limited, is referred to and the doctrine of estoppel by election was dealt with. The relevant portion of the judgment is extracted hereunder:

*"29. In **Cauvery Coffee Traders, Mangalore v. Hornor Resources***



(International) Company Limited, (2011) 10 SCC 420, this Court considered a large number of judgments on the issue of estoppels and held as under:

“A party cannot be permitted to “blow hot and cold”, “fast and loose” or “approbate and reprobate”. Where one knowingly accepts the benefits of a contract or conveyance or an order, is estopped to deny the validity or binding effect on him of such contract or conveyance or order. This rule is applied to do equity, however, it must not be applied in a manner as to violate the principles of right and good conscience.....

.....The doctrine of estoppel by election is one of the species of estoppels in pais (or equitable estoppel), which is a rule in equity. By that law, a person may be precluded by his actions or conduct or silence when it is his duty to speak, from asserting a right which he otherwise would have had.”

30. In the instant case, the tenure holders/person-interested neither filed objections under [Section 5-A](#) of the Act, nor have they challenged the land acquisition proceedings, so far as the suit land is concerned, instead they chose to withdraw the compensation awarded in 1983 and 1986; after the expiry of about three decades and hence, they cannot be permitted to challenge the acquisition proceedings on any ground whatsoever. The appellants cannot claim title/relief better than what the original vendors were entitled to.

31. In fact, the appellants have claimed reliefs in the writ petitions with respect to not just the suit land but also in relation to the land which was the



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subject matter of an earlier litigation by their predecessors-in-interest. We fail to understand for what purpose the relief of quashing the acquisition proceedings has been sought when, in respect of the said land, the proceedings already stood quashed.

32. The High Court dealt with the proceeding, issued in RC No. 8222/95/F5, which is purported to have been issued by one K.Muthu, Special Tahsildar (Land Acquisition), and observed that the said proceeding itself stood cancelled and somehow a xerox copy of the said proceeding was obtained by the appellants and they utilised the same to secure permission for sanctioning their plan of construction of flats on the said land. Thus, the appellant have played fraud upon the authorities in order to obtain the said sanction. Even as per the RC No. 8222/95/F5, it is evident that the possession of the suit land was taken over ages ago and therefore, the said suit land was the subject matter of the earlier litigation.

33. The High Court also recorded findings to the effect that the appellants have “managed”, not only to obtain certain orders from the department, but have also misused the process of the court to achieve a sinister design. The court further took note that one of the appellants had filed an additional affidavit before the High Court in a writ petition by way of which, had attempted to mislead the court through furnishing of false information.

It has even been admitted at the Bar, that the letter dated 7.7.2005 which was placed on the record by the appellants before the High Court, was in fact, a forged document.

34. The appellants have not approached the court with clean hands, and are therefore, not entitled for any relief. Whenever a person approaches a Court of Equity, in the exercise of its extraordinary jurisdiction, it is expected that he will approach the said court not only with clean hands but also with a



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clean mind, a clean heart and clean objectives. Thus, he who seeks equity must do equity. The legal maxim “Jure Naturae Aequum Est Neminem cum Alterius Detrimento Et Injuria Fieri Locupletiolem”, means that it is a law of nature that one should not be enriched by causing loss or injury to another.

(Vide: [The Ramjas Foundation & Ors. v. Union of India & Ors.](#), AIR 1993 SC 852; [Nooruddin v. \(Dr.\) K.L. Anand](#), (1995) 1 SCC 242; and [Ramniklal N. Bhutta & Anr. v. State of Maharashtra & Ors.](#), AIR 1997 SC 1236)."

5. In the present case, the specific contention in the suit in O.S.No.4 of 2020 is that he had retired from the partnership firm and had sought the benefits under the said retirement deed, hence the same would amount to acceptance of such retirement deed. Therefore, this Court is of the considered opinion that once the defacto complainant has claimed the benefits under retirement deed, he cannot turn around and decline the execution of the retirement deed.

6.The learned Counsel appearing for the defacto complainant and the learned Government Advocate (Crl.side) appearing for the 1st respondent submitted that the signature of the defacto complainant varies. If it varies, then the defacto complainant ought not to have taken a stand in the O.S.No.4 of 2020 that he is entitled to benefits under the said retirement deed. Having claimed benefits, now the defacto complainant is restrained from taking such a plea, which would amount to beating hot and cold at the same time.

7.For the above said reasons, this Court is inclined to quash the impugned FIR.



Accordingly, the impugned FIR is quashed and the criminal original petition is allowed.

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28-11-2025

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To

1. The Inspector of Police
District Crime Branch Police Station
Virudhunagar

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