

Ganpat Lal Babel vs State Rep By on 17 June, 2022

Author: M.Nirmal Kumar

Bench: M.Nirmal Kumar

CrI.O.P.Nos.257 & 317 o
CRL RC.Nos.1418 & 1420

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 03.12.2021

ORDERS PRONOUNCED ON : 17.06.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.Nos.257 & 317 of 2020
and
CRL.RC.Nos.1418 & 1420 of 2019
and
CrI.M.P.Nos. 150 & 206 of 2020
and
CRL MP No.18458 of 2019

CRL.O.P.Nos.257 & 317 of 2020

1.Ganpat Lal Babel
2.Ankit Babel

... Petitioners / A1 & A2 in
CrI.O.P.No.257 of 202

3.A.Saravanan

... Petitioner / A5 in
CrI.O.P.No.317 of 202

Vs.

1.State Rep by
The Inspector of Police,
C-2, Elephant Gate Police Station,
Flower Bazaar,
Chennai – 600 001
(Crime No.675 of 2019)

... 1st Respondent / Complai
in both CrI.O.P

2.Rajkumar V Jain

... 2nd Respondent /
Defacto Complainant
CrI.O.P.No.257/202

1/30

<https://www.mhc.tn.gov.in/judis>

CrI.O.P.Nos.257 & 317
CRL RC.Nos.1418 & 1420

3.Rajkumar

... 2nd Respondent / Defacto
Complainant in
CrI.O.P.No.317/202

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.675 of 2019, dated 16.12.2019, pending on the file of the first respondent and quash the same as against the petitioners.

CRL.RC.Nos.1418 & 1420 of 2019

1.S.Natarajan

... Petitioner/A6 in
CrI.R.C.No.1418 of 2019

2.Ganpat Lal Babel
3.Ankit babel

... Petitioners / A1 & A2 in
CrI.R.C.No.1420 of 20

Vs.

1.State Rep by
The Inspector of Police,
C-2, Elephant Gate Police Station,
Flower Bazaar,
Chennai – 600 001

... 1st Respondent / Complai
in both CrI.R.Cs.

2.V.Rajkumar

... 2nd Respondent / Defacto
Complainant in both CrI.

COMMON PRAYER: Criminal Revision Cases filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records in CrI.M.P.No.782 of 2019, dated 27.11.2019, on the file of the learned V Metropolitan Magistrate, Georgetown, Chennai and set aside the same.

2/30

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CrI.O.P.Nos.257 & 317
CRL RC.Nos.1418 & 1420

For Petitioners in Crl.O.P.257 / 2020 & in R.C.No.1420/2019	:	Mr.N.R.Elango, Sr.Counsel For Mr.A.S.Aswin Prasanna
For Petitioners in in R.C.No.1418/2019	:	Mr.S.Illamvaludhi
For Petitioners in Crl.O.P.317 / 2020	:	Mr.S.Prabhakaran For Mr.S.Illamvaludhi
For Respondent-1 (in all Petitions)	:	Mr.Hasan Mohamed Jinnah State Public Prosecutor Assisted by Mr.E.Rajthilak Additional Public Prosecuto
For Respondent-2 (in all Petitions)	:	Mr. M.Balaji

COMMON ORDER

The Criminal Original Petitions in CRL.O.P.Nos.257 & 317 of 2020 have been filed praying to quash the proceedings in Crime No.675 of 2019, dated 16.12.2019, pending on the file of the first respondent.

2.The Criminal Revision Cases in CRL.R.C.Nos.1418 & 1420 of 2019 have been filed praying to set aside the proceedings in Crl.M.P.No.782 of 2019, dated 27.11.2019, on the file of the learned VIII Metropolitan Magistrate, Georgetown, Chennai. <https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019

3. Earlier, the matters were listed before the Division Bench of this Court and finally, on the orders of My Lord, The Hon'ble Chief Justice, the above matters were directed to be listed before this Court and thus, the above cases were listed.

4.Since the issue involved in all these petitions are one and the same, they were heard together and being disposed of by this common order.

5.1. The gist of the case is that the defacto complainant / 2nd respondent respondent and his two friends viz., Suresh and Sanjai K Jain, on 14.11.2018, bought a property, bearing No.157/323 Sowcarpet, Chennai, which was auctioned by the Madras High Court, vide C.S.No.418 of 2017 and got the Sale Certificate in R.O.C.No.10221 of 2018 (OS) dated 19.11.2018, from the Registrar, Madras High Court and they are in possession of the property. At the time of purchase, 12 members

were tenants at the above mentioned property. As new owners of the above property, the defacto complainant and his friends had discussion with the persons, who were occupying the property for entering into a new contract. The old persons, who were on rent, came for a compromise of receiving Rs.25,00,000/- to vacate the place, agreed <https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 for it, got the amount, they entered deed of handing over the property and vacated accordingly.

5.2. The defacto complainant and his partners entered into a contract and as per the contract, from the above said contract, the Shop No.G8 was allotted to the defacto complainant. In the G8 shop one Ganpathlal Babel was running a Jewellery Shop in the name and style of 'Payal Jewellers'. The said Ganpathlal agreed to vacate the said shop on receipt of Rs.25,00,000/-. Pursuant to the agreement entered, the defacto complainant paid Rs.25,00,000/- to the said Ganpathlal and he vacated the shop. Later, the defacto complainant let out the shop No.G8 to rent to one Mr.Vivek. The said vivek after entering a rental agreeemnt occupied the above shop. After that, Ganpathlal Babel / A1 came to the shop, created dispute, demanded the defacto complainant another one crore rupees.

5.3. In these circumstances, one Dharmesh Loda informed the defacto complainan that P.K.Sekarbabu, a Member of Legislative Assembly of Harbour Constituency, wants to meet him in connection with the said shop dispute. On 28.06.2019, the defacto complainant met P.K.Sekarbabu in his MLA Office, who was there with his lawyers Chandru, Saravanan and Natraj and five muscle men of their party, they <https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 demanded Rs.1,00,00,000/- from the defacto complainant, threatened that if he not paid, he will not enjoy the possession of the property, cannot survive in Chennai City and do business. Fearing of life, the defacto complainant accepted their demand only to some extent and paid Rs.35,00,000/- on 05.07.2019, through the lawyer A.Saravanan / A5. On receipt of the same amount, A5 demanded another sum of Rs.65,00,000/- , as instructed by MLA P.K.Sekar Babu. But the defacto complainant informed him that he cannot pay more amount than what he already paid.

5.4. On the same day ie., on 05.07.2019, at 12.00 O'clock, the Inspector of Police, C2 Elephant Gate Police Station, Chennai, came to the house of the defacto complainant, arrested him on the complaint that he stole jewels from Ganpathilal Babel's shop. Further, the Inspector of Police called his partner, told them that if the balance amount is not paid, he will not be allowed to come out on bail. In the George Town Court, the Lawyers A.Saravanan and K.S.Natarajan received Rs.5,00,000/- from the partners of the defacto complainant and subsequently, the defacto complainant was released on bail. Further, on 23.07.2019, the defacto complainant preferred a criminal complaint before the Inspector of Police (L&O), C-2 Elephant Gate Police Station, Chennai, the respondent herein, against A1 to A8 and other gang men. <https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 Subsequently, he preferred a complainant before the higher authorities. Since, there was no action, the petitioner filed a petition in Crl.M.P.No.644 of 2019 before the learned VIII Metropolitan Magistrate, George Town, Chennai, seeking a direction to register the complaint. The learned Magistrate referred the complaint to the Police for investigation under Section 156(3) of CrP.C. On the basis of the complaint forwarded, the present FIR came to be registered.

6. The learned Senior Counsel appearing for the petitioners in all the petitions would submit that the complaint do not disclose any prima facie case against the petitioners. During the month of May 2019, the defacto complainant approached the 1st petitioner, told him that they have purchased the property through court auction, asked A1 to vacate the shop and demanded Rs.1,60,00,000/-, if tenants want to continue to run the business in the shop. On 24.06.2019, when A1 went to open his shop, he was shocked to see the lock of the shop broken. Immediately, he informed the same to C2-Elephant Gate Police Station. When the police official came and opened the shop, it was found that jewels worth about to Rs.2.5 Crore and other valuable things were stolen. Based on the complaint of A1, and after thorough enquiries, FIR registered in Crime No.388 of 2019 under Sections 427, 488, 457 and 380 of IPC., against the defacto complainant and his friends. According to the petitioners, <https://www.mhc.tn.gov.in/judis> CrI.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 the actual dispute is between the purchaser of the litigation property and occupier / tenant with regard to possession and they have given criminal colour to the civil dispute. The FIR registered against the petitioners is clear abuse of process of law.

7. It is the further submission of the learned Senior Counsel that the case instituted by the 2nd respondent before the 1st respondent is with mala fides and with an ulterior motive due to vendetta. There is an inordinate delay in lodging the complaint, no explanation was offered for delay in the complaint as well as in the petition filed under Section 156(3) of Cr.P.C. The learned Magistrate did not exercise his powers under Section 156(3) of Cr.P.C., legitimately. The 2nd respondent lodged a counter blast complaint maliciously in order to evict A1, to whom he re-delivered the possession of the said property. The defacto complainant is a Habitual offender, engaged rowdy elements, henchmen, goondas to evict the A1 from the Shop unlawfully. A false case has been registered against the petitioners because of vendetta, to spoil the reputation, name and fame earned with the public for relentless service to the Society. Further, the defacto complainant and his friends Suresh Kumar and Sanjai K Jain are the persons, who indulged in purchasing of disputed property, thereafter using their muscle men and power, forcibly evict the occupants of the purchased property.

<https://www.mhc.tn.gov.in/judis> CrI.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019

8. The learned counsel appearing for the defacto complainant would submit that petitioners 1 and 2, after taking a sum of Rs.25,00,000/- from the defacto complainant handed over the possession. Thereafter, in order to extract more money, A1 lodged a false complaint on 29.06.2019, as if Shop No.G8 was in his possession and locks were broken. FIR was registered in Crime No.388 of 2019 by the Elephant Gate Police Station. On the same day, another complaint was lodged by the defacto complainant as against A1 and A2, which was registered in Crime No.389 of 2019. Thereafter, A1 withdrew his complaint and filed a memo to that effect. It is further submitted by the learned counsel for the defacto complainant that the petitioners/accused has no locus standi to file the present petitions and the order passed by the learned Magistrate under Section 156(3) Cr.P.C., is an interlocutory order by nature and therefore, remedy of revision against such order is barred under sub-section (2) of Section 397 of the Code of Criminal Procedure. Further, no Criminal Revision Petition will lie against the orders passed by the Magistrate directing investigation under Section 156(3) Cr.P.C. All the accused, who are backed by rowdy elements, Lawyers and politician, in order

to extract money from the defacto complainant by illegal means harassing him.

<https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019

9. The learned State Public Prosecutor appearing for the 1st respondent Police would submit that admittedly, there is civil and money dispute between the defacto complainant and the petitioners / accused. The accused threatened the defacto complainant demanding a huge sum of money. At the instance of A1 and A2, the other accused involved in the offence to extract money from the defacto complainant. It is his further contention that the delay in lodging the complaint cannot be a ground for quashing the FIR and there is no limitation for criminal prosecution for offence of this nature. If there are prima facie materials available, petition under Section 482 Cr.P.C. for quashing the criminal proceedings, cannot be entertained and the Investigating Agency allowed to go into whole gamut and to reach logical conclusion of its own. As the FIR discloses elements of cognizable offence and prima facie materials of cognizable offence made against the accused persons, there is no ground for quashing the criminal proceeding.

10. Adding further, the learned State Public Prosecutor would submit that in the present case, the FIR discloses cognizable case and the investigation is at the threshold. At this stage, the FIR cannot be quashed. The investigation cannot be thwarted or stalled at the initial stage. From the allegations made in the FIR it is very clear <https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 that it is not a fit case where this Court should exercise its inherent power under Section 482 of the Code to quash the FIR and to stop the investigation. The investigation, would only reveal the truth or otherwise of the complaint. At this stage, this Court cannot look into all the papers and documents annexed with the petitions as those were neither verified nor tested and therefore, the learned State Public Prosecutor prays for dismissal of the petitions.

11. I have heard the learned counsels appearing on either side and carefully perused the materials available on record.

12. It is seen that the defacto complainant had purchased the property, through Court auction, with 12 tenants. A1 running a jewellery shop in the name and style of, 'Payal Jewellers', for several years. Further he was tenant under one Johny S/o.Rathan Lal for almost 30 years. A1 had entered into the premises as tenant in the year 1991 and continues to be a tenant. The defacto complainant along with his friends one Suresh and Sanjai K Jain purchased the property bearing No.157/323, Sowcarpet, Chennai, through Court Auction in C.S.No.418 of 2017 on 14.11.2018. The Tenants were given three options viz., if the existing tenants intend to purchase the shop / demised property, they have to pay Rs.2,25,00,000/-; If they intend to continue as tenants, the <https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 rent was fixed as Rs.1,25,000/- per month and ten months advance of Rs.12,50,000/- to be paid and if they willing to vacate the shop, they would be paid Rs.25,00,000/-, after negotiation and agreement was entered on 19.06.2019 between the defacto complainant and A1, the defacto complainant paid Rs.25,00,000/- on 22.06.2019. Thereafter, A1 said to have vacated the premises

and one Vivek inducted as tenant. Thereafter, A1 had a change of mind, demanded Rs.1,00,00,000/- from the defacto complainant.

13. Further, the defacto was instructed through his friend one Darmesh Loda that he has to meet A3/P.K.Sekar Babu, the then MLA of that Constituency to settle the issue. On 28.06.2019, the defacto complainant had gone to the MLA Office, at that time, A4 to A6 present along with some muscle men, demanded Rs.1,00,00,000/- from him. The defacto complainant agreed and paid Rs.35,00,000/- on 05.07.2019 to A5 / Advocate Saravanan, who is also the Counsel for the defacto complainant to his brother with regard to other case. In fact, A5/Advocate Saravanan has filed Anticipatory Bail application on behalf of the defacto complainant and his brothers defending him in other case. When the balance amount of Rs.65,00,000/- was demanded, the defacto complainant refused to pay the amount and therefore, a false case is said to have been registered against the defacto complainant in Crime No.388 <https://www.mhc.tn.gov.in/judis> CrI.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 of 2019 and thereafter, he was arrested and remanded. In that case, compromise was arrived between the defacto complainant and the accused.

14. As regards the present case, the defacto complainant made a complaint before the learned VIII Metropolitan Magistrate, Georgetown, Chennai, who took the complaint in CrI.M.P.No.7099 of 2019, forwarded the same to the respondent police to register a case. On 16.12.2019, FIR registered in Crime No.675 of 2019, against eight persons, for the offence under Sections 385, 386, 387, 389, 395, 420 and 506(ii) r/w 34 IPC. The complaint itself is a belated one, six months after the alleged occurrence it has been lodged. The defacto complainant is an accused in Crime No.388 of 2019, he was arrested on 06.07.2019. There have been case and counter case between A1 and the defacto complainant. A case in Crime No.388 of 2019, at the instance of A1 / Ganpat Lal babel has been registered against the defacto complainant. A case in Crime No.389 of 2019 has been registered on the complaint of the defacto complainant against A1 and others, added to it, there are civil suits filed between them in O.S.No.4957 of 2019 before the City Civil Court, Chennai, by A1 against the defacto complainant and his business partners Suresh Kumar and Sanjai K Jain. Further, the defacto complainant attempted to use muscle men to throwaway A1 from the <https://www.mhc.tn.gov.in/judis> CrI.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 shop, breaking upon of the shop of A1, looting of the jewels have been recorded in Crime No.388 of 2019. Further, for the breaking open of the defacto complainant's shop, the Merchants' of Mint Street, Sowcarpet, Chennai, gave a complaint, supporting, to the respondent Police on 06.08.2019, wherein, the dispute of A1 and the defacto complainant as well as the defacto complainant using muscle men and threatening the petitioner are all recorded.

15. Further, the said Vivek / inducted tenant filed a civil suit in O.S.No.5616 of 2019 before the XVI Assistant City Civil Court, Chennai, seeking injunction not to interfere with the peaceful possession and enjoyment of the suit property that is the disputed shop. The A1 filed yet another civil suit in O.S.No.6217 of 2019 City Civil Court, Chenna, against the original owner viz., R.Johny, seeking permanent injunction and not to disturb his possession. Thus, there are three civil suits and three criminal cases between each other. A1 is in jewellery business for several decades, A2 is his father, A3 is the local MLA, A4 to A6 are advocates, A7 is the brother-in-law of A1 and A8 is the friend of A1. The complaint is primarily that all these persons have joined together, forced the defacto

complainant to pay a sum of Rs.1,00,00,000/-, as settlement for vacating A1's from the shop.

<https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019

16. Earlier, the defacto complainant, had broken open the shop of A1, using muscle men, for which, a case has been registered against the defacto complainant and he was arrested. The defacto complainant's business partners have entered into the agreement of compromise with the accused. A5 is the Advocate, who defended the defacto complainant. A4 to A6 Advocates by profession, who have visited the defacto complainant in prison and got instruction. The business partners viz., Suresh Kumar and Sanjai K Jain along with the defacto complainant's brother have arrived at a compromise with A1, the Advocates taken part in the compromise, A1 appeared before the learned VIII Metropolitan Magistrate, George Town, Chennai, thereafter filed a memo of compromise, no further action need to be taken in Crime No.328 of 2019, same considered, bail granted to the defacto complainant, thereafter, the case fizzled out.

17. It is seen that during the remand, the defacto complainant has not raised any allegation against the accused in respect of demand, forcing him for a settlement and parting of money. The allegation in the complaint in Crime No.675 of 2019 is with substantial improvements, exaggeration. There is no specific overt act as against A2 to A8. In fact, A5 / Advocate Saravanan has been defending the defacto <https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 complainant for his earlier cases. There is a dispute between A1 and A2 with defacto complainant and his friends with regard to the property in which A1 tenant in the property bearing No.157/323, Sowcarpet, Chennai. The complaint itself is a counter complaint, defensive for the case against the defacto complainant in Crime No.388 of 2019. No reason has been given for the delay of six months in lodging the complaint inferring that the complaint is an after thought. From the Court auction it reveals that the defacto complainant purchased the property "as is where is" condition and not as claimed by him that the tenancy agreement between the tenants and erstwhile owners cancelled.

18. Further, the defacto complainant was involved in a criminal case of abusing and assaulting CMDA Officials in C.C.No.3060 of 2019, pending on the file of the Learned II Metropolitan Magistrate Court, Egmore. The defacto complainant and his businessmen are in the real estate business, well-versed in intricacies of law in respect of obstruction and removal of from the property. The contention of A1 that when the defacto complainant forcibly made an attempt to evict A1, trouble started and the case got registered against him, latter with an exaggerated improved version, the case in Crime No.675 of 2019, got registered, cannot be brushed aside.

<https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019

19. Further, the learned VIII Metropolitan Magistrate, George Town, Chennai, referring the complaint under Section 156(3) of Cr.P.C., in Crl.M.P.No.782 of 2019, dated 27.01.2019 is a cryptic order. Though it is not a requirement that the order should be an elaborate and detailed one, the

minimum requirement is that the learned Magistrate has to peruse the complaint and thereafter, if finds material, may forward the complaint to the Police, for registration of the case. The requirement is that the order should reflect the same, though not in a detailed manner. In this case, except the one line order, “ Heard. Records perused. This petition is directed to SHO of C-2 Elephant Gate Police Station to register a case investigate and Report.” nothing more is found. More so, there have earlier case against the defacto complainant, on the complaint of A1, in Crime No.388 of 2019, the same Court remanded the defacto complainant, latter let him on bail, hence, dealt earlier, to get satisfied about any false implication.

20. The contention of A5/ Advocate Saravanan that had he involved in the above case, as projected by the defacto complainant, no vakalat would have been entrusted to him by the defacto complainant, to file anticipatory bail application on 02.07.2019 for Crime No.388 of 2019. Further, he was engaged to file the bail petition in that case on <https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 06.07.2019. The defacto complainant had consulted and discussed with the other advocates, who are also shown as accused, with his counter part on 08.07.2019. Further, A5/Advocate Saravanan had filed bail application and appeared for the defacto complainant on 10.07.2019, thereafter, filed relaxation petition on 19.07.2019. Had the case now projected against A5/Saravanan presumed to be true, the entrustment of case and the above events could not have taken place. Further, the defacto complainant had given vakkalat, instructed A5 to file an application to obtain the certified copy of the order passed in Crl.O.P.No.7884 of 2021 on 20.04.2019. Till November 2019, A5/Saravanan giving advice defending the defacto complainant and his business associates. In the Calender Case in C.C.No.3060 of 2019, A5/Saravanan defended the defacto complainant's group, conducted the cross-examination for them on 19.11.2019. Thus, the defacto complainant, as an offensive to wriggle out of his misdeed, forced A1 and others to vacate the shop on his terms, obviously falsely implicated A5/Saravanan and others in this case.

21. It is strange to see that a specific allegation against the accused herein is that a false case has been lodged by A1 in Crime NO.388 of 2019 and using the same, the defaco complainant was arrested and remanded and using the situation, extraction of money has <https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 been made by the accused. That is how the case unfolds. But, in this case, there is no complaint against the any of the police officials for foisting false case. As stated above, in this regard, no complaint made during remand. It is not in out of place to see that the defacto complainant, made complaint against the police officials viz., Inspector of Police C2 Police Station and two advocates / A4 and A6 before the Bar Council of Tamil Nadu and Puducherry, on 02.11.2019. Further, for inaction on the part of the Bar Council, the defacto complainant filed a Writ In W.P.No.102 of 2020. Due to the compromise arrived between the defacto complainant and the accused, the Writ Petition in W.P.No.102 of 2020 now withdrawn by the defacto complainant.

22. Be that as it may, now the issue between the defacto complainant and the petitioners/Accused resolved amicably settled between them. Defacto complainant appeared, produced affidavit in both Crl.O.P.Nos.317 and 257 of 2020. Further, pursuant to the compromise, A1 / Ganpath Lal Babel is continuing as lessee in the shop bearing No.G8, measuring 380 Sq.ft and continues to be a tenant. A

Memorandum of understanding and Rental Agreement entered between them, which forms part of the order, which is extracted hereunder:-

<https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 RENTAL AGREEMENT THIS DEED OF RENTAL AGREEMENT ENTERED INTO AT CHENNAI THIS 1ST DAY OF FEBRUARY 2020, BETWEEN MR.SANJAY K.JAIN, S/o.Mr.Kesarimal Jain aged about-46 years, residing at Flat No.3152, Third Block, 15th Floor, TVH Lumbini Square. No.127A, Bricklin Road, Purasawalkam, Chennai-7, hereinafter called the LESSOR which term wherever occurs shall mean and include his heirs, legal representatives, executors, assigns and administrators of One part:-

AND MR. GANPAT LAL BABEL, S/o.Mr. Sharnkarlal Babel(DL No.TN 0419860000738) aged about 60 years, residing at Flat No.B, 204 , Vimalachal Apartments 1088 Ponamalee High Road, Purasawalkam Chennai 600084, hereinafter called the lessee and include his heirs, legal representatives of the other part Shall witnesseth WHEREAS the Lessor is the absolute owner of the Shop portion No.G8 measuring 350 sq.ft appx in the premises bearing Old Door No.157, New Door No.323, as per corporation property tax records bearing New Door No.319. Mint Street, Sowcarpet, Chennai 79 and WHEREAS the Lessee had approached the lessor to take lease of above Ground floor tenancy portion in the above property more particularly described in the schedule herein for the purpose of carrying on business of jewellery on the monthly rent of Rs.1,15,000/- (Rupees One lakh fifteen thousand only) and offered to pay Security Deposit Amount of Rs.3,45,000/-(Rupees Three Lakhs Forty Five Thousand only) and Advance Rs.8,05,000/-(Rupees Eight Lakhs Five thousand only by way of Cheque No.142433 dt drawn on Deena Bank in favour of the Lessor and whereas the Lessor also agrees to lease the schedule shop portion to the Lessee on the following terms and conditions mutually agreed between them.

<https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 NOW THIS DEED OF RENTAL AGREEMENT WITNESSETH

1. The Lease shall be for a period of 55 months commencing from 01.02.2020 and expires with 31.08.2021 and after every 15 months the lessee shall pay 10% enhancement on the following existing monthly rent.

2. The Lessee shall pay the monthly rent at the rate of Rs. Rs.1,15,000/-

(Rupees One lakh fifteen thousand only) plus applicable GST on or before 5th every succeeding English Calendar month to the Lessor without default. The Lessees shall pay the above rate of rents subject to deductors of tax at source.

3. Apart from the monthly rent, the LESSEE shall pay Applicable maintenance charges, Electricity consumption charge and water charges to the authorities concerned.
4. The LESSEE has today Security Deposit Amount of Rs.3,45,000/- (Rupees Three lakhs Forty Five thousand and advance amount of Rs.8,05,000/- (Rupees Eight lakhs and Five thousand only) by way of Cheque No.142433dt drawn on Deena Bank to the Lessor and the Lessor Doth hereby, acknowledge the receipt of the same. The said security Depoity amount of Rs.3,45,000/-(Rupees Three laksh Forth five thousand only) and advance of Rs.8,05,000/- (Rupees Eight lakhs five thousand only has been paid to safeguard the interest of the Lessor in case of any damage caused to the schedule tenancy portion by the Lessee.
5. The lessor shall refund the above security deposit and advance amount to the Lesse when the Lessee vacate and deliver the vacant possession of the schedule tenancy portion to the Lessor and till s uch time the same shall not bear any interest.
6. The Lessee shall not demand for the adjustment of Security Deposit towards any rental arrears or future rents.
7. The Lesses shall not sublet the schedule tenancy portion or any part <https://www.mhc.tn.gov.in/judis> CrI.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 thereof.
8. The Lessee shall not carryout any repairs or alterations and additions without the written permission from the lessor
9. The Lessee shall not claim the costs of the improvement if any made in the schedule portion with the permission of the lessor and shall leave the same while vacating the portion without claiming any cost therefore
10. The Lessess shall keep the scheduled tenancy portion neat and clean during the lease period and sufficiently repair, maintain and keep the said tenancy portion in good condition.
11. The Lessee shall deliver the scheduled tenancy portion on the expiry of the lease in good condition to the lessor subject to natural wear and tear.
12. The lesee has agreed to white wash (paint) the schedule tenancy portion regularly till the expiry of this lease or subsequent lease period.
13. The lessor is not liable or responsible in respect of any damage caused due to natural calamities like flood, earthquake, fire accident, etc to the scheduled tenancy portion or the stock in trade of the lessee.
14. The lessee shall permit the lessor or his authorized agent to inspect the scheduled tenancy portion.

15. The Lessee shall not keep any illegal or contraband goods in the scheduled tenancy portion
16. The Lessee has taken the scheduled tenancy portion for non residential purpose for running jewellery business and he shall not use it for any other purpose or business
17. The Lessee shall do the above business in proprietor concern and shall not do in partnership without the written consent from the lessor.
18. The Lessee shall not use the shop let out for the purpose of running business in vegetable, fruits, persiable goods/commodities, Non vegetarian goods/ items like meat, fish, poultry hotel, cafeteria and Restaurant <https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019
19. The Lessee shall not carry on any kind of illegal activities in the scheduled tenancy portion 20 If the lessee default in the payment of rent, consecutively for two months or commit breach of any of the above conditions, the lease deed stand cancelled and the lessee shall liable to vacate and deliver the scheduled tenancy portion to the lessor forthwith and on failure to deliver possession of the scheduled tenancy portion, the Lessee shall liable to pay damages in the rate of Rs.5000/- per day till he surrender the possession of scheduled tenancy portion to the lessor.
21. The lease entered is non transferable and in the event of death of the lessee the lease with stand terminated immediately. The lessee's legal heirs or successors in interest executors, administrator and assignees will have no right over the leased premises.
22. The Lessee shall not keep or store any illegal inflammable article or explosives
23. The Lessee shall not put up any hoarding, name plates graffiti etc in places other than the shop leased to him.
24. The Lessee shall not install or erect air conditioner or air conditioner compressor/exhaust in common area or common passage or in front elevation of the building
25. The Lessee will not have any right to place any idol / grafit / photo of any religious God/ Saint / Guru / chairs / stools / racks / stands / display / buckets in the common passage/ common area of the building.
26. The Lessee shall not put up a grill gate of shutter projectin in the common passage /common area of the building.

SCHEDULE SHOP PORTION NO.G.8, MEASURING 350SQ.FT APPX. THE GROUND FLOOR IN THE PREMISES BEARING OLD DOOR NO.157, NEW DOOR <https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 NO323 AS PER CORPORATION PROPERTY TAX RECORDS BEARING NEW DOOR NO.319, MINT STREET, SOWCARPET, CHENNAI-79 IN WITNESS WHEREOF THE LESSOR AND LESSEE HAVE SET THEIR HANDS

AND SIGNED THEIR NAMES ON THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN IN THE PRESENCE OF WITNESS V.RAJKUMAR JAIN GANPATHLAL BABEL (PART OF THE FIRST PART) (PARTY OF THE SECOND PART)” MEMORANDUM OF UNDERSTANDING THIS MEMORANDUM OF UNDERSTANDING being entered on this the 27 th day of February 2020 between Mr. V. RAJKUMAR JAIN son of Valchand, aged 49 residing at No.12/26 Baker Street, Choolaimedu Chennai 600112 (hereinafter called the PARTY OF THE FIRST PART) AND MR GANPATHLAL BABEL aged 58 years son of Shankar Babel residing at No.1088, Poonamalle High Road, Vimalchal, Purasawalkam, Chennai - 600084 (hereinafter called the PARTY OF THE SECOND PART) witness as follows:-

The party of the first part along with his partners purchased a property at Mint Street, in Court Auction. The party of the second part was a tenant in the said premises purchased by the party of the first part. Several misunderstandings rose between both the parties with regard to the tenancy, which led to filing of several cases both civil and criminal by both the parties. Now both the parties have settled <https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 their issues amicably and has agreed to withdraw the cases filed against each other. As an outcome of the amicable settlement, the Party of the First Part and his partners has agreed for the Party of the second part to continue his tenancy in the same premises and a separate Rental agreement has been entered into between the relevant parties.

The party of the first part agrees to withdraw the Criminal complaint given in crime no. 389 of 2019 and Crime No. 675 of 2019 on the file of the C2 - Elephant Gate Police station, Chennai, against the party of the second part, his son Ankit Babel and others. The party of the first part agrees to give letters addressed to the Inspector of police C2 elephant Gate police Station withdrawing the above mentioned criminal cases. Similarly the party of the second part who has filed a case in crime number 388 of 2019 on the file of C2 elephant Gate police Station agrees to withdraw the said complaint which is launched against the party of the first part and others. The party of the Second part agrees to give a letter withdrawing the said complaint addressed to the Inspector of police C2 to elephant Gate police station.

The party of the first part agrees to withdraw WP 102 of 2020 filed before the Hon'ble High Court of judicature at Madras with regard to the above said issue.

Both the parties agree to withdraw the civil suit filed against each other in

O.S.No. 4957/2019 pending on the file of V Asst. City Civil Court, U.S. No. 5616 of 2019 pending on the file of XVI Asst. City Civil Court and Q.S. No. 6217 of 2019 pending on the file of I Asst. City Civil Court, Chennai.

Both parties agree to file this memorandum of understanding before the Honourable High Court of Judicature at Madras in the pending proceeding between both the

<https://www.mhc.tn.gov.in/judis> CrI.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 parties.

The party of the first part agrees to file an affidavit stating that the matter has been settled between the party of the first part and others and the party of the second part and he is Withdrawing the criminal cases pending on the file of C2 elephant Gate police station. The party of the first part agrees to file affidavits in CrI. RC. No. 1418, 1420 of 2019 and in CrI.O.P. Nos. 317 of 2020 and CrI.O.P. No's. 257 of 2020 stating that he agrees to withdraw the criminal complaint in Crime No. 675 of 2019 on the file of the C2 Elephant Gate Police Station and has no objection if the case is quashed in the above mentioned crime number.

Both parties/agree that there are no pending litigations between them and they will Withdraw every legal proceeding that has been filed against each other both civil and criminal. Both parties agree that there are no claims or liabilities against each other.

Date at Chennai on this the 27 Ih Day of February 2020 V. RAJKUMAR JAIN GANPATHLAL BABEL (PARTY OF THE FIRST PART). (PARTY OF THE SECOND PART) WITNESSES

23. Now, on unequal terms, the defacto complainant had made it clear that he has already given a withdrawal letter stating not interested in proceeding with the case in Crime No.675 of 2019. Further, as per the Memorandum of Understanding all the cases both civil and criminal, <https://www.mhc.tn.gov.in/judis> CrI.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 pending between each other group, stands withdrawn and now they are in peace with harmony and carrying on their business. The dispute is primarily a civil dispute for eviction, vacating the shop premises of A1, which now resolved. A1 continues to be a lessee in the defacto complainant's property. For the civil dispute, civil suits have been filed between each group and now all the cases have been withdrawn by the respective parties. The inclusion of the other persons as accused in consequence to the dispute between the defacto complainant and A1.

Now it is resolved. The case against A2 is that he is father of A1, the case against A3 is that being MLA involved in the deal, A4 to A6 Advocates though defended the defacto complainant took sides with the accused, A7 brother-in-law of A1 and A8 friend of A1. Other than this, there is nothing specific. The case primarily arise out of dispute with regard to vacating A1 from the shop by force, predominantly civil in nature. After the compromise, full and complete settlement between them resolved, now rigour of the case eclipsed. The Apex Court in the case in Giansingh Vs. State of Punjab reported in (2012 (10) SCC

303) and in State of Madhya Pradesh Vs. Laxmi Narayan and Others reported in (2019 (5) SCC 688) had issued guidelines. In view of the above, the continuation of the case as against the petitioners and other accused would be an abuse of process of law.

24. In the result, the Criminal Original Petitions are allowed and <https://www.mhc.tn.gov.in/judis> Crl.O.P.Nos.257 & 317 of 2020 & CRL RC.Nos.1418 & 1420 of 2019 the case in Crime No.675 of 2019, dated 16.12.2019, pending on the file of the first respondent is quashed against the petitioners/accused and quashed against the other accused. In result, FIR in Crime No.675 of 2019 is hereby quashed.

25. Insofar as the Criminal Revision Cases are concerned, they have been filed on 10.12.2019, praying to call for the records in Crl.M.P.No.782 of 2019, dated 27.11.2019, on the file of the learned VIII Metropolitan Magistrate, Georgetown, Chennai and set aside the same. In the interregnum, the learned Magistrate, forwarded the complaint filed by the defacto complainant under Section 156(3) of Cr.P.C., pursuant to which, an FIR in Crime No.675 of 2019, dated 16.12.2019 has been registered against the accused and there now remains nothing for adjudication. Hence, both the Criminal Revision Petitions are dismissed as infructuous. Consequently, the connected miscellaneous petitions are closed.

17.06.2

Index : Yes/No
Internet : Yes / No
MPK/vv2

<https://www.mhc.tn.gov.in/judis>

Crl.O.P.Nos.257 & 317 of 202
CRL RC.Nos.1418 & 1420 of 201

To

1.The VIII Metropolitan Magistrate,
Georgetown,
Chennai

2.The The Inspector of Police,
C-2, Elephant Gate Police Station,
Flower Bazaar,
Chennai – 600 001

3.The Public Prosecutor,
High Court, Madras.

Note: Issue Order Copy on 21.06.2022.

<https://www.mhc.tn.gov.in/judis>

CrI.O.P.Nos.257 & 317 of 2020 &
CRL RC.Nos.1418 & 1420 of 2019

M.NIRMAL KUMAR, J.

MPK

Pre-Delivery Order made in

CRL.O.P.Nos.257 & 317 of 2020
and
CRL.RC.Nos.1418 & 1420 of 2019

17.06.2022

<https://www.mhc.tn.gov.in/judis>