



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

Crl.O.P(MD)No.5790 of 2014

and

M.P. (MD).Nos.1 and 2 of 2014

- 1.Selvakumar
- 2.Rajangam
- 3.Ranjith Kumar
- 4.S.Muthiah
- 5.Saravanan

... Petitioners/Accused 1 - 5

-Vs-

- 1.State rep by
The Inspector of Police,
Thallakulam Police Station,
Madurai.

... Respondent/Complainant

- 2.Mr.Madhan Prabhu

... Respondent/Defacto Complainant

PRAYER:- Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the records relating to the proceedings in C.C.No.669 of 2013 on the file of the Judicial Magistrate No.II, Madurai and quash the same.

For Petitioners	: Mr.K.Kannan
For R1	: Mrs.S.Prabha
	Government Advocate (Crl.side)

ORDER

This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 praying to call for the records relating to the proceedings in C.C.No.669 of 2013 on the file of the Judicial Magistrate No.II, Madurai and quash the same.

2.Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.side) appearing for the first respondent.

3.The petitioner is arrayed as A5 for the alleged offence under Sections 147, 324, 379 and 506(i) of I.P.C in Crime No.1653 of 2011. After investigation, charge sheet has been filed in C.C.No.669 of 2013 on the file of the Judicial Magistrate Court No.II, Madurai.

4.Two submissions have been made by the learned counsel for the petitioners. The first submission is that the complaint has been given out of personal vengeance. The second submission is that there is no dishonour intention.

<https://hcservices.ecourts.gov.in/hcservices/> 5.In any case, there is no requirement for alleged offence under Section 379 of I.P.C and it is not mandatory that recovery as to in all cases. The recovery can only be an evidence to prove the alleged offence.



6.The question of deliberate intention is also not been proved. It is a matter to be decided when the petitioner raised his plea to prove her case before the trial by adducing evidence. Hence, this Court is not inclined to quash the proceedings initiated against the petitioners. This criminal original petition is dismissed.

7.The learned Government Advocate (Crl.side) would submit that the petitioner is not co-operating with the trial and hence non-bailable warrant was issued against him.

8.The learned counsel for the petitioner submits that non bailable warrant may be recalled and the petitioner would co-operate with the further hearing.

9.Considering the above said submissions, this Court is inclined to recall the non bailable warrant issued by the Court below against the petitioner and the petitioner is also directed to appear and co-operate with the further hearing. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate No.II,
Madurai.
- 2.The Inspector of Police,
Tallakulam Police Station,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.K.Kannan,Advocate, SR.No.22559

Crl.O.P(MD)No.5790 of 2014
27.04.2015

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