

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.7907 of 2015
and
M.P.No.1 and 3 of 2015

1. P.C.Muthusamy
2. K.P.Doraisamy
3. M.Hemalatha ... Petitioners/A3 to A5

Vs

1. State by
The Inspector of Police,
District Crime Branch,
Erode, Erode District.

2. N.Subramani
3. Kri.Ganesamurthy
4. K.C.Thangaraj

(Respondents 3 and 4 are impleaded
as per the order of this Court made
in M.P.No.2 of 2015 , dated 05.06.2015) ... Respondents

Criminal Original Petition filed under Section 482
Cr.P.C. to call for the records concerned in Crime No.31 of 2014
on the file of the Inspector of Police, District Crime Branch,
Erode, Erode District and quash the same.

For Petitioners : Mr.C.Prakasam

For respondent : Mr. C.Emalias,
Additional Public Prosecutor,
for -R1

Mr.C.S.Saravanan,
for -R2

Mr.P.P.Shanmugasundaram, R3&4

O R D E R

The present criminal original petition has been filed to call for the records in Crime No.31 of 2014 on the file of the respondent police and quash the same.

2. The case in Crime No.31 of 2014 has been registered against the petitioners based on the complaint given by one Subramani, who is the second respondent herein, for the alleged offences punishable under Sections 120(b), 406, 420 & 506(ii) I.P.C. The petitioners are arrayed as A3, A4 and A5. Hence, they have come forward with the present petition to quash the same.

3. The case of the prosecution is that the defacto complainant is doing agricultural work. The petitioners along with A1 and A2 running a registered partnership Company, namely, M/s.Kongu Finance at Perundurai. While so, the defacto complainant had paid a sum of Rs.30,00,000/- in between the year 2006 to 2012 based on the assurance given by the A1 and A2 that they would pay interest for the said amount. During the year 2014, the defacto complainant asked to return the loan amount. But, A1 and A2 neither paid the interest nor returned the loan amount of Rs.30 lakhs, which was given by the defacto complainant. On 27.10.2014, when the defacto complaint went to A1 and A2's residence and asked them to return back his money, both of them threatened him with dire consequences. Hence, the defacto complainant lodged a complaint. Based on the complaint, a case in Crime No.31/2014 under Sections 120(b), 406, 420 and 506(ii) IPC was registered on 28.11.2014.

4. Further the case of the prosecution is that A1 and A2 and these petitioners are also partners in the said finance company. These petitioners colluded with A1 and A2 and collected the amount from the innocent public and subsequently closed the said company without any information to the concerned authorities. Hence, the case has also been registered as against all the accused for the alleged offences under Sections 120(b), 406, 420 and 506(ii) IPC.

5. The learned counsel for the petitioners submitted that there is no material to connect these petitioners/A3 to A5 in the alleged offences. The petitioners along with A1 and A2 were running a Finance Company till 2005. In the year 2005, since a dispute arose between the partners, the partnership firm was dissolved on 05.02.2005 and these petitioners were relieved from the partnership firm and the entire amount was settled. He further submitted that in the complaint, the defacto complainant has stated that the occurrence had been taken place from 29.07.2006 to 27.10.2014. Thus, they sought for to quash the

case as against the petitioners.

6. The learned counsel appearing for the intervener vehemently opposed the same.

7. The learned Additional Public Prosecutor has also made his submission by filing a detailed counter and made his submission that investigation is in progress and during investigation, A1 and A2 have given their confession statement stating that A1 to A5 collected the amount from the public and invested the same in their other business and also deposited the amount in bank and as and when they required, they withdrew and used for their personal purposes. The learned Additional Public Prosecutor further submitted that till now, they have have collected 69 complaints from 69 victims. Thus, he opposed to quash the FIR.

8. However, I am of the considered opinion that the scope under Section 482 Cr.P.C. to quash the first information report is very limited, since the investigation is not yet completed. Hence, I am of the opinion that the present petition is a pre-mature one. However, the petitioners are at liberty to approach this Court after filing final report by the respondent police.

9. In fine, the criminal original petition is dismissed. However, the petitioners are at liberty to work out their remedy after filing of the final report. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mrp
To

1. The Inspector of Police,
District Crime Branch,
Erode, Erode District.
2. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.C.Prakasam, Advocate, sr.5598
+1 cc to Mr.C.S.Saravanan, Advocate, sr.6267
+1 cc to Mr.P.P.Shanmugasundaram, Advocate, sr.5375

Cr1.O.P.No.7907 of 2015

ar iii, kra 12.02.2016