

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2017

CORAM:

THE HONOURABLE MR. JUSTICE **M.S.RAMESH**

Crl.O.P.No.3977 of 2017

and

CRL MP.No.2962 of 2017

A.P.Pichandi

...Petitioner

.Vs.

1. State rep by Inspector of police (Crime),
F-5, Choolaimedu Police Station, Chennai.

2. S.Arul Prakasam,
S/o. Sundaram, No.523, 1st Floor,
Arunachalam Flat, C-Block, South Mada
Street, Koyambedu, Chennai.

.... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in connection with the complaint in Crime No.558 of 2017 on the file of the 1st Respondent Police F-5, Choolaimedu, Crime, Chennai and quash the same.

For Petitioner : Mr.Y.Kaja Navas

For Respondent -1 : Mr.P.Govindarajan
Additional Public Prosecutor

ORDER

Petitioner has filed the above Criminal Original Petition seeking to call for the records in connection with the complaint in Crime No.558 of 2017

and quash the same.

2. The brief facts of the case is as follows:

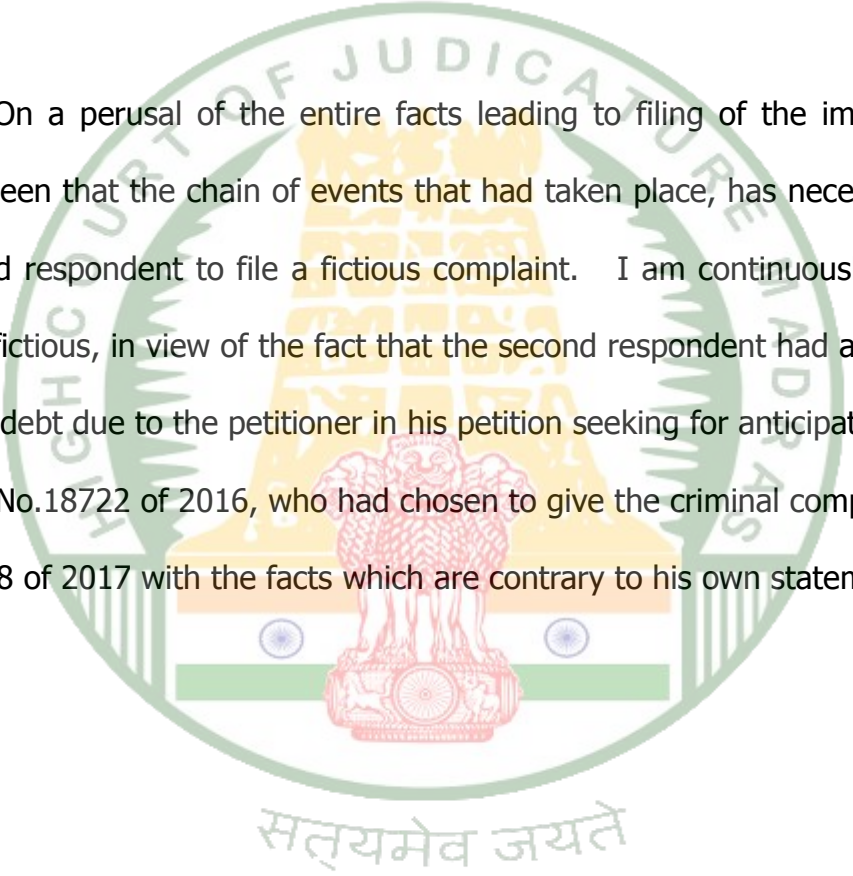
The second respondent had borrowed a sum of Rs.10,00,000/- (Rupees Ten Lakhs) from the petitioner on four occasions between 16.10.2013 and 04.04.2014. Since, the second respondent had refused to return the money, the petitioner had given a police complaint on 14.04.2016 against the second respondent and the same is pending. However, the second respondent's wife had issued a cheque dated 16.09.2017, in favour of the petitioner towards discharge of the amount of Rs. 10,00,000/- borrowed. The cheque was dishonored and the petitioner filed a complaint under Section 138 of the Negotiable Instrument Act in C.C.No.6716 of 2016 which is now pending for trial before the learned XVII Magistrate, Saidapet, Chennai.

3. While the petitioner's complaint was kept pending, the second respondent had filed an anticipatory bail petition before the Principal Sessions Court in CrI.M.P.No.18722 of 2016. In the said petition, the second respondent had clearly admitted the aforesaid facts. While that being so, the second respondent had given another police complaint before the first respondent, which was taken on the file in CrI.M.P.No.4259 of 2016 and ordered by the learned XVII Magistrate, Saidapet, Chennai.

4. Since, the second respondent's complaint had culminated into Crime No.558 of 2017 for various offences, petitioner has filed the present petition to quash the investigation.

5. I have heard learned counsel for the petitioner and the learned Additional Public Prosecutor for the first respondent. There is no representation for the second respondent.

6. On a perusal of the entire facts leading to filing of the impugned FIR, it is seen that the chain of events that had taken place, has necessitated the second respondent to file a fictitious complaint. I am continuously using the word fictitious, in view of the fact that the second respondent had admitted about the debt due to the petitioner in his petition seeking for anticipatory bail in CrI.M.P.No.18722 of 2016, who had chosen to give the criminal complaint in FIR No.558 of 2017 with the facts which are contrary to his own statements.



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M.S.RAMESH.J,

smn/smi

7. The petitioner has also initiated proceedings under the Negotiable Instrument Act for the amount due from the second respondent, which is also pending. Further more, the petitioner had also earlier given a police complaint against the second respondent on 14.04.2016. The present complaint which is culminated into an first information report seems to be a counter blast to the various legal steps taken by the petitioner against the second respondent.

8. From the perusal of the averments made in the complaint, I am of the view that it is not a fit case to be investigated. Hence, the investigation in Crime No.558 of 2017 on the file of the respondent is hereby quashed and the Criminal Original Petition stands allowed.

सत्यमेव जयते

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Index: Yes/No

To.

<http://www.judis.nic.in> The Inspector of police (Crime),
F-5, Choolaimedu Police Station, Chennai.

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