

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2017

CORAM

THE HONOURABLE Mr.JUSTICE M.S.RAMESH

Crl.O.P.No.2542 of 2012
and Crl.M.P.No.1 of 2012

G.Vasanth

.. Petitioner

Vs

1. State rep by
The Inspector of Police,
Vennandur Police Station,
Namakkal District.
(Crime No. 602 of 2010)

2.S.Eswaramoorthy

3. The Chief Manager,
Karur Vysya Bank,
Agricultural Cell,
Credit Management Department,
Central Office,
Karur.

.. Respondents

Prayer : Criminal Original Petition is filed Under Section 482 of the Criminal Procedure Code, praying to call for the records pending trial in C.C. No.221 of 2011 on the file of the Learned Judicial Magistrate, Rasipuram and quash the same.

For Petitioner : Mr.T.Karunakaran

For Respondents : Mr.C. Iyyappa Raj, APP - R1
Mr.T.Murugamanickam - R2
Mr.G.Karthik - R3

O R D E R

The prayer sought for in the present petition is to call for the records pending trial in C.C. No.221 of 2011 on the file of the Learned Judicial Magistrate, Rasipuram and quash the same.

2. The 2nd respondent had availed a jewel loan from 3rd respondent bank on 24.11.2012 and a sum of Rs.43,476/- was due to be paid by him as on 19.08.2010. When the agriculture debt

waiver scheme came in vogue, the 2nd respondent became entitled for waiver of the outstanding under the said scheme and thereby, he was under the impression that the loan was cleared as against him. However, the petitioner herein had demanded a sum of Rs.22,871/- from the 2nd respondent, stating that there was an outstanding amount in the earlier jewel loan and therefore the second jewel loan was denied.

3. Since the amount outstanding was an impediment for the sanction of the second loan, the 2nd respondent was constrained to pay the alleged outstanding sum of Rs.22,871/- towards the first jewel loan to the petitioner herein. After such payment, the 2nd respondent realised that the outstanding payment demanded by the petitioner was not proper and therefore, sent a legal notice on 28.02.2009, demanding return of amount paid by him, stating that he was a beneficiary under the waiver scheme. Pursuant to that he had also given a complaint to the police, which culminated into filing of charge sheet under Section 384 and 506(i) of IPC in C.C. No.225 of 2013 on the file of the Judicial Magistrate, Rasipuram, which proceedings are under challenge .

4. Heard Mr.Mr.T.Karunakaran, learned counsel appearing for the petitioner, Mr.T.Murugamanickam, learned counsel appearing for the second respondent, Mr.G.Karthik, learned counsel appearing for the third respondent and the learned Additional Public Prosecutor for the first respondent.

5. The learned counsel for the petitioner submits that the demand of outstanding amount was pursuant to the instructions of his Head Office by letter dated 05.03.2009, stating that in cases of NPA account, the NPA balance should be claimed and no exemption can be claimed after the cut-off date. In view of his Head Office instructions, the petitioner was constrained to demand a sum of Rs.22,871/-. Subsequently, when the mistake was realised, he had offered to return the money by way of Demand Draft for the said sum, which came to be returned by the petitioner. From the averments, it is seen that there is no intention to commit any criminal offence and the petitioner had bonafidely sent back the money after realising that the 2nd respondent was entitled for the waiver.

6. The learned counsel for the 2nd respondent, on the other hand vehemently opposed, stating that it is a clear case of extortion, wherein the petitioner was very much aware of the fact that the 2nd respondent is a beneficiary under the waiver scheme. The learned counsel for the 2nd respondent also contended that only after the legal notice was sent, the petitioner had adopted these kind of tactics of offering to return the money and that the original intention was to receive an amount of Rs.

22,871/- for the purpose of considering his jewel loan application. Since the offences under Sections 384 and 506(ii) has been made out, the learned counsel for the petitioner submitted that the present case seeking for quash does not deserve any consideration.

7. Before analysing as to whether the petitioner is entitled for quashing the proceedings, it would be appropriate to have glance at Sections 383 and 384 IPC which reads as follows; Section 383 of IPC - Extortion :

"Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits "extortion".

384. Punishment for extortion :-

"Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

8. The ingredient of Section 383 of IPC is that, there must be an intention of the accused person to put another person in fear of any injury and this intention should induce such person to deliver any property.

9. In the present case on hand, it is seen that the petitioner had demanded to pay a sum of Rs.22,871/- pursuant to the instructions of Head Office in the letter dated 05.03.2009. The said amount was received in cash through proper bank cash deposit challan dated 19.08.2009. Therefore, it cannot be said that the petitioner intended to demand the amount for the purpose of converting into valuable security. As a matter of fact, the amount demanded by the petitioner was remitted to the bank and was not intended for his personal use. Further more, there is no evidence to show that the petitioner had put any fear of any injury to the 2nd respondent by demanding him to pay the outstanding amount.

10. There are sufficient materials to show that the petitioner had acted upon the Head Office's advise to collect a sum of Rs. 22,871/-. As such, the offence under Section 383 of IPC is not made out as against the petitioner herein.

11. Incidentally, it is also seen that there are no overt acts from the statements of witnesses under Section 161 Cr.P.C as well as in the complaint to implicate the petitioner under

Section 506(i) IPC.

12. In the absence of the ingredients of Sections 384 and 506(i) IPC, it can only be concluded that no offences have been made out against the petitioner and hence, the petitioner need not undergo the ordeal of facing a trial.

13. Accordingly, the Criminal Original Petition stands allowed and the proceedings pending on the file of Judicial Magistrate, Rasipuram in C.C. No. 221 of 2011 are quashed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

ak/asi

To

1. The Judicial Magistrate,
Rasipuram.
2. The Inspector of Police,
Vennandur Police Station,
Namakkal District.
3. The Public Prosecutor,
High Court, Madras.

+2cc to Mr.T.Karunakaran, Advocate, S.R.No.83811

+1cc to Mr.Zeenath Begum, Advocate, S.R.No.83468

Cr1.O.P.No.2542 of 2012
and Cr1.M.P.No.1 of 2012

RRK(19/12/2017)

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