



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2017

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

CRL.O.P. (MD) .No.14598 of 2017

1. Ramamoorthy
2. Seervathy
3. Radhakrishnan . . . Petitioners

Vs.

1. The Superintendent of Police,
Virudhunagar District,
Virudhunagar.
2. The Inspector of Police,
Narikudi Police Station,
Narikudi, Virudhunagar District.

3. Maruthupandi
4. Mahalakshmi . . . Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to direct the second respondent not to harass the petitioners under the guise of enquiry.

For Petitioners : Mr.M.Senthil Ayyanar

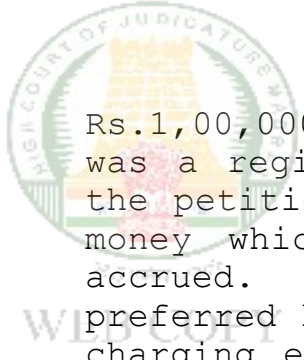
For R-1 & R-2 : Mr.K.S.Durai Pandiyan,
Additional Public Prosecutor.

ORDER

This Criminal Original petition is filed for issuing a direction to the second respondent not to harass the petitioners under the guise of enquiry.

2. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for respondents 1 and 2.

<https://hcservices.ecourts.gov.in/hcservices/>
3. The petitioners state that the second petitioner obtained a Mortgage Deed from the fourth respondent, after advancing a sum of



Rs.1,00,000/- to the fourth respondent. Though the transaction was a registered instrument, namely, a registered Mortgage Deed, the petitioners state that the fourth respondent has not paid the money which is due as per the Mortgage Deed or the interest accrued. It is further stated that the complaint has been preferred by the fourth respondent as against the petitioners for charging exorbitant interest and that a case has been registered as against the petitioners, on the basis of the registered Mortgage Deed.

4. It is to be noted that the petitioners also received summons from the second respondent/Inspector of Police, Narikudi Police Station to appear for an enquiry in connection with the complaint that was lodged by the fourth respondent. The grievance of the petitioners is that the petitioners are being harassed, as if they have committed the offence by charging exorbitant rate of interest which is contrary to the Money Lenders Act and the provisions of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003.

5. The petitioners themselves admit that the document has been obtained from the fourth respondent for charging interest at the rate of 24% and in default to charge interest at the rate of 27% in case, the borrower does not repay within one year, an offence against the petitioners is made out.

6. Even if a complaint is lodged as against the petitioners, it is not necessary that the respondent police should harass the petitioners. Only if the petitioners give pressure to the fourth respondent for paying the exorbitant interest enforcing the Mortgage Deed and demand more interest than permissible under the statutes, it is open to the respondents to proceed further as against the petitioners, after registering the complaint for charging exorbitant interest. Except registering the case in accordance with law, there need not be any harassment. Even if the presence of the petitioners is required for any enquiry, the same can also be done only after issuing summons in the manner known to law and by following the guidelines issued by the Hon'ble Supreme court, in the case of **D.K.Basu Vs. State of West Bengal**.

7. With the above observation, the Criminal Original petition is closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar



To

1. The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

2. The Inspector of Police,
Narikudi Police Station,
Narikudi, Virudhunagar District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.M.Senthil Ayyanar, Advocate Sr.No.84599

PMU

VB/MR/KKR/SAR4/13/11/2017/3P/5C

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