



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 13.03.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.(MD)No.1719 of 2016

and

CRL MP(MD) No.872 and 1484 of 2016

1.V.Kalaiselvan,
S/o. Velusamy,
16, Post Office Street,
Subbiah Colony,
K.K.Nagar, Madurai- 625 020.

2.K.Latha Maheswari,
W/o.Kalaiselvan,
16, Post Office Street,
Subbiah Colony,
K.K.Nagar, Madurai - 625 020

Petitioners/Accused Nos.1&2

Vs

1.State Rep by
The Inspector of Police,
Anna Nagar Police Station,
(Law & Order),
Anna Nagar, Madurai.
(Crime No.1253 of 2015)

...1st Respondent/Complainant

2.M.Ponnusamy,
S/o.Muthiah,
No.11, K.No.521, Rakilai Illam,
East Cross Street, Anna Nagar,
Madurai.

...2nd Respondent/Complainant

Prayer: Criminal Petition filed under Article 482 of the Constitution of India, praying to call for the records pertaining to the impugned FIR in Crime No.1253 of 2015 pending investigation on the file of the 1st respondent and to quash the same.

For Petitioner	: Mr.M.R.Sreenivasan
For R1	: A.P.Balasubramani
	Government Advocate(crl. side)
For R2	: R.Anand

ORDER

This petition has been filed to quash the case in Crime No.1253 of 2015 pending investigation on the file of the 1st respondent.

<https://hcservices.courts.gov.in/hcservices>



2. It is the case of Ponnusamy (de-facto complainant) that the petitioner/accused had borrowed Rs.3 lakhs on 13.01.2014 and that they have also written it in a note book and given it to the de-facto complainant. When the de-facto complainant started demanding the money, the accused refused to give the money. In this regard, the de-facto complainant gave a complaint to the police and since no action was taken, he filed a petition before the Judicial Magistrate, NO.VI, Madurai, which has been referred to the respondent police under Section 156(3) Cr.P.C., pursuant to which, the police have registered a case in Crime No.1253/2015 on 28.07.2015 under Sections 406, 420 and 506(ii) IPC against the petitioners/accused herein. Challenging which, the accused are before this Court.

3. Heard the learned counsel for the petitioners and the learned Government Advocate for the respondent.

4. The learned counsel for the petitioners/accused submitted that the transaction is purely civil transaction and that the de-facto complainant has engineered a complaint by resorting to the provisions of Section 156(3) Cr.P.C..

5. Per contra, the learned counsel for the de-facto complainant submitted that when the complaint discloses commission of cognizable offences, the same should not be quashed.

6. This Court gave its anxious consideration to the rival submissions.

7. A reading of the complaint clearly shows that there has been money transaction between the de-facto complainant and the accused. It is the allegation of the de-facto complainant that when he started demanding money, the accused threatened him. In the complaint, it is not even stated the date on which, the accused are said to have been threatened the de-facto complainant. Under such circumstances, this Court is of the view that the FIR is an abuse of process of law and requires to be quashed.

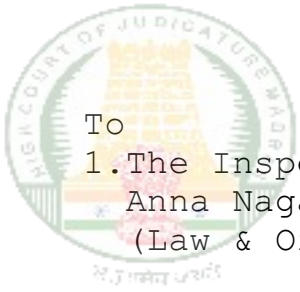
8. In the result, the criminal original petition is allowed and the FIR is quashed. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar



To

1. The Inspector of Police,
Anna Nagar Police Station,
(Law & Order), Anna Nagar, Madurai.

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

+1CC to M/S.M.R.Sreenivasan, Advocate, SR.No. 14213

+1CC to M/S.R.Anand, Advocate, SR.No. 14582

Crl.O.P.(MD)No.1719 of 2016
and
CRL MP(MD) No.872 and 1484 of 2016
13.03.2017

RR

AM/SV MMS/24.03.2017/3P/5C