



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CRL.O.P. (MD) No. 7442 of 2017 &
Crl.M.P. (MD) .No. 5075 of 2017

Jiyavudeen : Petitioner/Accused No.2

-Vs-

1. State Represented by the Inspector of Police,
C4, Thilagarthidal Police Station,
Madurai. : Respondent/Complainant

2. Manokaran : Respondent/Defacto complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to call for the records of FIR in Crime No.483 of 2017 on the file of the respondent No.1 police station and quash the same as illegal as against this petitioner.

For Petitioner : Mr.M.A.Jinnah
For Respondent : Mr.K.Anbarasan for R1
Government Advocate (Crl.Side)

O R D E R

It is the case of the *defacto complainant* that he is a platform vendor selling mobile phones. While so, on 03.05.2017, when he laid the mobile phones on the street, the accused came and in the guise of negotiating to the defacto complainant, stealthily took away two mobile phones. Hence, the First Information Report.

2. Mr.M.A.Jinnah, learned counsel for the petitioner, submitted that on a reading of the First Information Report it is so improbable, inasmuch as nobody would sell mobile phones in the platform.

3. In the considered opinion of this Court, second hand mobile phones are being sold for low rate by platform vendors. Therefore, this Court cannot draw an inference that mobile phones will not be sold by platform vendors. The defacto complainant appears to be a poor platform vendor. From him, the accused is said to have stolen two mobile phones. There are prima facie materials in the First Information Report. It is not the fit case to quash the First Information Report in the light of the law laid down by the Honourable Supreme Court in **State of Harayana v. Bhajan Lal and Ors.** reported in **AIR 1992 SC 604**. Therefore, the criminal original petition is dismissed with liberty to the petitioner to work out



his remedy in the manner known to law. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

/True copy/

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Sub Assistant Registrar

To

1. The Inspector of Police,
C4, Thilagarthidal Police Station,
Madurai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.M.A.JINNAH , Advocate, SR No. 61012.

JIKR

PSM/KP/SAR1/27.06.2017/2P/4C

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