



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2017

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P. (MD) No.15712 of 2011

and

M.P. (MD) No.1 and 2 of 2011

1.A.Jerold Pio

2.Hema

... Petitioners

Vs.

1.State rep. by

The Inspector of Police,
Koodalpudur Police Station,
Madurai,
(Crime No.403 of 2011).

2.S.Mahendran

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in F.I.R in Crime No.403 of 2011 in the office of the Inspector of Police, Koodalpudur Police Station, Madurai, pending on the file of the Judicial Magistrate Court No.IV, Madurai and quash the same.

For Petitioners : Mr.F.X.Eugene

For 1st Respondent : Mr.M.Murugan
for Mr.K.Anbarasan,
Govt. Advocate (Crl.side)

For 2nd Respondent : Mr.S.Manohar

ORDER

The Criminal Original Petition has been filed under Section 482 Cr.P.C., in Crime No.403 of 2011 in the office of the Inspector of Police, Koodalpudur Police Station, Madurai, pending on the file of the Judicial Magistrate Court No.IV, Madurai and quash the same.

2.The case of the petitioner is that the petitioner borrowed a sum of Rs.7,00,000/- from the defacto complainant. Thereafter, he issued a cheque in favour of the defacto complainant as a security. Thereafter, when the cheque was presented for



collection and the same was returned with an endorsement "insufficient fund".

3. The learned counsel appearing for the petitioners would submit that the cheque was dishonored as insufficient fund and therefore, the second respondent filed a complaint before the respondent police which was filed under Section 294(b), 323, 406, 420 and 506(ii) of I.P.C. Pursuant to the same, the petitioner filed a petition to quash the FIR in Crime No.403 of 2011.

4. The learned counsel appearing for the second respondent would submit that the second respondent received a cheque from the petitioners. Thereafter, the same was presented by the buyer bank and the same was returned as "insufficient fund" which was questioned by the second respondent at the work place of the petitioners. Immediately, after the incident, the respondent filed a complaint before the respondent police on 23.10.2010. Since the first respondent did not take any action against the petitioners, the second respondent filed a direction petition before this Court in CrI.O.P.(MD)No.3871 of 2010. This Court after considering the matter elaborately passed the following orders:

" 3. According to me, when a complaint given by the petitioner discloses a cognizable offence, a duty is cast upon the respondent police to register a case and thereafter, they must conduct an enquiry and without registering the case they should not conduct enquiry if any cognizable offence is made out on the complaint given by the petitioner. Hence, the first respondent is directed to register a case, if the complaint discloses a cognizable offence."

5. Challenging the registration of the complaint in Crime No.403 of 2011, the present petition has been filed which is not sustainable.

6. Heard the submission made by the learned counsel on either side.

7. On perusal of the order, this Court has clearly held that the complaint given by the second respondent, discloses a cognizable offence and based on the same the first respondent registered a case in Crime No.403 of 2011. Therefore, the question of challenging the registration of FIR, does not arise.

8. Accordingly, this Criminal Original Petition is dismissed giving liberty to the petitioners to work out their remedy in the manner known to law. Since, the F.I.R is in initial stage of prosecution, this Court directs the Law Enforcing Agency to conduct a detailed investigation. If the investigation reveals



any material available for commission of offence, the Investigation Officer may file a charge sheet before the competent Court. It is open to the petitioners to disprove their innocence before the competent Court, after filing the charge sheet in the above said case. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.IV, Madurai.
2. The Inspector of Police,
Koodalpudur Police Station,
Madurai,.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P. (MD) No.15712 of 2011
and
M.P. (MD) No.1 and 2 of 2011
13.12.2017

RMI

KK/KKR/SAR 1/25.01.2018/ 3P- 4C/