

P.SIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.Nos.18268 and 15847 of 2018
Crl.M.P.Nos.9573 and 8111 of 2018

P.Ragunathan ..Petitioner in Crl.O.P.No.18268 of 2018
S.Thilagamani ..Petitioner in Crl.O.P.No.15847 of 2018

Vs

1. The State
Rep. by the Inspector of Police,
City Crime Branch,
Coimbatore.
2. S.Perumalsamy,
Assistant Collection Manager,
YES Bank Limited,
494, Manchester Krsna Landmark,
Avinasi Road,
Coimbatore.Respondents in both petitions

Criminal Original Petitions filed under Section 482 Cr.P.C., to call for the records relating to the impugned FIR in Crime No.26 of 2018, on the file of the 1st Respondent police and quash the same.

For Petitioners : Mr.N.Manokaran

For R1 : Mr.C.Iyyapparaj
Addl. Public Prosecutor

C O M M O N O R D E R

These Criminal Original Petitions have been filed to call for the records in Crime No.26 of 2018, on the file of the first Respondent Police and quash the same.

2. On the complaint lodged by the YES Bank, the first respondent Police have registered a case in Crime No.26 of 2018 on 04.05.2018 against P.Ragunathan (A-1/Petitioner in Crl.O.P.18268 of 2018 and his wife S.Thilagamani (A-2/Petitioner in Crl.No.15847 of 2018) under Sections 406 and 420 of IPC, for quashing which, these petitions have been filed.

3. Heard Mr.N.Manokaran, learned counsel for the accused and Mr.C.Iyyapparaj, learned Additional Public Prosecutor, for the first respondent State.

4. It is alleged by the de facto complainant that both the accused borrowed a total sum of Rs.1,38,00,000/- from the Bank for purchase of buses; they were paying the dues regularly, however, they stopped paying the EMI amount four months prior to the registration of the FIR; when the Bank official Mr.Anbarasu called upon the accused to at least show the buses, they were not able to show the buses even; Mr.Anbarasu had met the accused on 22.02.2018, 23.03.2018, 28.03.2018 and 03.05.2018 requesting them to show him the buses, but to no avail. Hence, the FIR.

5. Mr.N.Manokaran, learned counsel for the accused, submitted that S.Thilagamani (A-2) is an Assistant Professor in Avinashilingam University, Coimbatore, and she has nothing to do with her husband's business. He further submitted that the allegation in the FIR is purely a civil dispute and that the accused have invoked the arbitration clause in the loan agreement. He also submitted that buses have been recovered after the arrest of the accused and have also been handed over to the de facto complainant.

6. This Court perused the case diary. On a perusal of the case diary, it is seen that the allegations against the petitioners/accused are that they have manipulated and fabricated the documents of the buses to raise loans for the same buses in different Banks. Thus, when there are prima facie materials, the FIR cannot be quashed, in view of the law laid down by the Supreme Court in State of Haryana vs. Bhajan Lal [AIR 1992 SC 604].

7. As regards the submission of Mr.N.Manokaran, relating to S.Thilagamani (A-2), this Court directs the Assistant Commissioner of Police, who is the supervisory authority to monitor the investigation in CCB Crime No.26 of 2018 and if during investigation, it is seen that S.Thilagamani (A2) was merely a name lender and was not involved in the business affairs with her husband, it is needless to state that further proceedings against her should be dropped.

8. With the above direction, these petitions are closed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

gms/mkn

To

1. The Inspector of Police,
City Crime Branch,
Coimbatore City,
Coimbatore District.

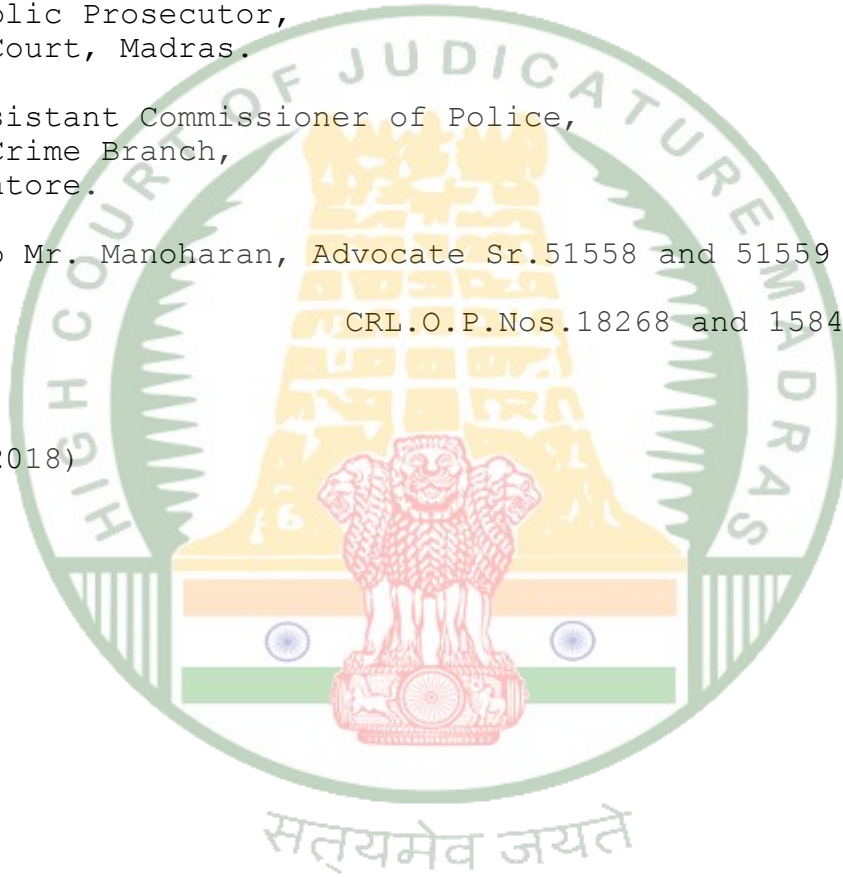
2. The Public Prosecutor,
High Court, Madras.

3. The Assistant Commissioner of Police,
City Crime Branch,
Coimbatore.

+ 2 ccs to Mr. Manoharan, Advocate Sr.51558 and 51559

CRL.O.P.Nos.18268 and 15847 of 2018

(CS-DR)
EU(11/08/2018)



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