



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2018

CORAM:

**THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN**

CRL.O.P. (MD) No.12433 of 2013

and

MP (MD) No.1 of 2013

WEB COPY

- 1.Basheer Ahamed
- 2.Sheik Jabeer Ahamed
- 3.Sheik Kabir Ahamed
- 4.Sheik Riyaas Ahamed
- 5.Sheik Ismail
- 6.Fathima

... Petitioners / Accused No.1 to 6

-vs-

- 1.The State represented by  
The Inspector of Police,  
City Crime Branch,  
Cantonment, Trichy.

...1<sup>st</sup> Respondent/ Complainant

- 2.Mubaarak Ali

...2<sup>nd</sup> Respondent/defacto  
complainant

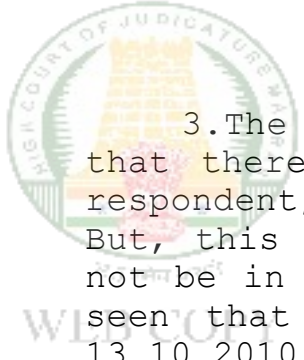
Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records on the file of the first respondent pertaining to the First Information Report in Crime No.6 of 2013 dated 27.02.2013 registered against the petitioners and quash the same .

|                                |                                                   |
|--------------------------------|---------------------------------------------------|
| For Petitioner                 | : Mr.M.Siddharthan                                |
| For 1 <sup>st</sup> respondent | : Mr.A.Robinson<br>Government Advocate (Crl.Side) |
| For 2 <sup>nd</sup> respondent | : No Appearance                                   |

### ORDER

The petitioners have been shown as accused in Crime No.6 of 2013 on the file of the first respondent for the offences under Sections 193, 417, 420, 468, 471 and 506(ii) of IPC. The second respondent herein is the defacto complainant. The petitioners herein have filed this Criminal Original Petition for quashing the F.I.R.

2.The learned counsel appearing for the petitioner pointed out that the second respondent had earlier filed a case in S.T.C.345 of 2012 on the file of the learned Judicial Magistrate No.V, Trichirapalli, under Section 138 of Negotiable Instruments Act, against the first petitioner herein and that the said private complaint ended in acquittal, on account of the complainant not turning up. The impugned F.I.R was lodged during the pendency of the said cheque case.



3.The learned counsel appearing for the petitioner pointed out that there is a gross discrepancy in the stand taken by second respondent, in the impugned F.I.R and in the private complaint. But, this Court is not conducting a trial and therefore, it would not be in a position to go into this contention in detail. It is seen that the impugned F.I.R is based on the agreement dated 13.10.2010 executed in favour of the defacto complainant.

4.The learned Government Advocate(Crl.Side) produced a copy of the said agreement. It is seen that the agreement was one between the first petitioner herein and the second respondent herein. The others have not played any role in the matter. Even, the cheque was issued only by the first petitioner herein. This Court is therefore, of the view that when the dispute is essentially one between the second respondent and the first petitioner, the other petitioners namely 2 to 6 have been unnecessarily roped into the case and therefore, the implication of the petitioners 2 to 6 is without any basis.

5. In the result, the impugned F.I.R., is quashed insofar as the petitioners 2 to 6 are concerned. This Criminal Original Petition is partly allowed in respect of the petitioners 2 to 6 and the same stands dismissed, insofar as the first petitioner is concerned. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,  
City Crime Branch,  
Cantonment, Trichy.

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

+1cc to Mr.M.Siddharthan, Advocate Sr.No.60784

DAS

VB/KKR/SAR1/04/05/2018/2P/4C

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