



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2018

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

CRL.O.P.(MD)No.15278 of 2011 and
M.P.(MD)Nos.1 & 2 of 2011

1.Manikkam

2. Deeparani Mehala ... Petitioners/Accused Nos.1 & 2

Vs.

1. The State rep. by,
The Inspector of Police,
Pavoorchathiram Police Station,
Tirunelveli District.
(In Crime No.265 of 2008) ... 1st Respondent/Complainant

2. Chelladurai ... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records relating to the Charge Sheet in C.C.No.289 of 2011 on the file of the Judicial Magistrate Court, Tenkasi and quash the same as illegal.

For Petitioners : Mr.Ajmal Khan,
Senior counsel,
for Ajmal Associates.

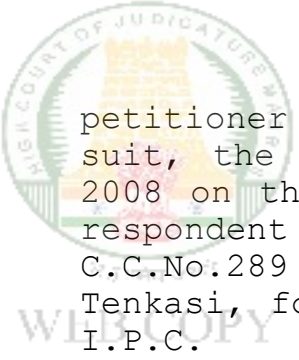
For R-1 : Mr.A.Robinson,
Government Advocate(Crl.Side)

ORDER

The petitioners are working as school teachers. The second respondent/defacto complainant is their colleague. The second respondent is said to have lent a certain sum of money as loan to the petitioners herein.

2. The case of the petitioners is that they have since repaid the loan amount. But probably seeking higher interest, the second respondent had filed a suit in O.S.No.60 of 2007 on the file of the Principal Subordinate Court, Tenkasi, on 12.04.2007.

3. The learned senior counsel appearing for the petitioners submits that the said civil proceedings ended in favour of the first



petitioner Manickam at the appeal stage. During the pendency of the suit, the second respondent cause registration of Crime No.265 of 2008 on the file of the Pavoorchathram police station. The first respondent filed a final report and the same was taken on file in C.C.No.289 of 2011 on the file of the learned Judicial Magistrate, Tenkasi, for the offences under Sections 294(b), 506(ii) and 420 of I.P.C.

4. The learned Senior counsel for the petitioners took this Court through the materials on record. It is seen that the impugned prosecution has been triggered as a fallout of a civil proceeding. The Hon'ble Supreme Court in more than one case has deprecated the practice giving criminal colour, to what is otherwise a civil proceeding.

5. This Court is of the view that continuing the impugned prosecution would definitely amount to abuse of legal process. In that view of the matter, the proceedings in C.C.No.289 of 2011 on the file of the learned Judicial Magistrate, Tenkasi, stand quashed. The Criminal Original petition stands allowed, accordingly. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Tenkasi.

2.The Inspector of Police,
Pavoorchathiram Police Station,
Tirunelveli District.

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

+1cc to Mr.R.Gandhi, Advocate, SR.No.72915.

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12.07.2018

pmu

RAM/SV/SAR 1/18.07.2018/2P/5C