



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE: 27.06.2019

CORAM

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THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**

Crl.O.P(MD)Nos.2287 and 2289 of 2017  
and  
Crl.M.P(MD)Nos.1804 and 1805 of 2017

M.Mani

...Petitioner/A1 in Crl.O.P(MD)No.2287 of 2017

Pandiselvi

...Petitioner/A2 in Crl.O.P(MD) No.2289 of 2017

-Vs-

1.The Inspector of Police,  
Thirunagar Police Station,  
Madurai District.

(In Crime No.649 of 2014) ...1<sup>st</sup> Respondent/Complainant

2.Jaiganesh

...2<sup>nd</sup> Respondent/Defacto Complainant  
in both Crl.OPs.,

**COMMON PRAYER:** Criminal Original Petitions filed under Section 482 of Cr.P.C., to call for the records pertaining to the charge sheet in C.C.No.319 of 2016 on the file of the learned Judicial Magistrate, Court No.VI, Madurai District and to quash the same.

For Petitioner

in both Crl.O.Ps., : Mr.R.Ganesan

For R1

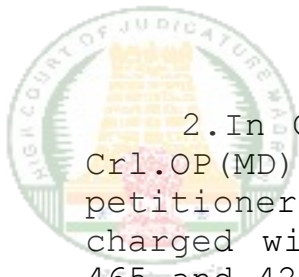
in both Crl.O.Ps., : Mr.K.Suyambulinga Bharathi  
Government Advocate (Crl.Side)

For R2

in both Crl.O.Ps., : Mr.J.Devasenar

**COMMON ORDER**

<https://hcservices.ecourts.gov.in/hcservices/> These Criminal Original Petitions have been filed to quash the proceedings in C.C.No.319 of 2016 on the file of the learned Judicial Magistrate No.VI, Madurai District.



2. In Crl.OP(MD) No.2287 of 2017, the petitioner is A1 and in Crl.OP(MD) No.2289 of 2017, the petitioner is A2 and both the petitioners are husband and wife. Both the petitioners have been charged with for the offence punishable under Sections 406, 418, 465 and 420 IPC.

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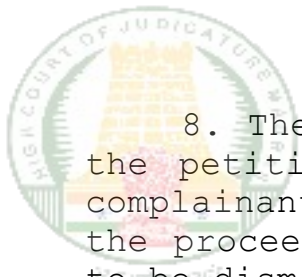
3. The allegation against the petitioners/A1 and A2, is that, they have mortgaged the property in Survey Nos.71/1A and 71/1B at Pandian Nagar, Co-operative Society. After mortgaging the property, they have sold the same in favour of the defacto complainant for a sum of Rs.5,62,000/-. At that time, the petitioners told the defacto complainant that already they have discharged the entire mortgage, and also produced a receipt for the same. Believing that word, the defacto complainant purchased the property. That apart, the third accused, who was working as a Secretary of the Co-operative Society also informed the defacto complainant that A1 and A2 already settled the amount to him. When the defacto complainant asked the original documents, they have failed to produce the same.

4. In the circumstances, on suspicion, the defacto complainant approached the Co-operative Society and they were informed that the A1 and A2 did not repay the mortgage amount, and property is still under mortgage, and with the connivance of A3, they have created the forged receipt, thereby cheated the defacto complainant. Thereafter, the defacto complainant filed a complaint, based on the complaint a crime has been registered, after investigation a final report has been filed, and that was taken cognizance by the learned Judicial Magistrate No.VI, Madurai. Now the matter is pending in C.C.No319 of 2016. The present petition has been filed to quash the above criminal proceedings.

5. Heard the learned counsel for the petitioners and also the learned counsel appearing for the respondent and perusing the records.

6. On perusal of the records, it would clearly reveal a prima facie case against the petitioners. The petitioners have created forged receipt as if they have paid the entire loan amount to the Society and sold the property in favour of the defacto complainant, with the connivance of A3, the Secretary of the Society. The materials collected, during the investigation *prima facie* reveals that A1 and A2 have intention to cheat the defacto complainant from the very inception.

7. Now the learned counsel for the petitioners contended that the petitioners have paid the entire mortgage amount to the society. After discharging the mortgage only they have sold the property. The learned counsel for the respondent contended that all the petitioners have any substantial materials to prove that they have discharged the mortgage, it is always open to them to prove the same during the trial.



8. The materials available on record *prima facie* reveals that the petitioners have forged the receipt and cheated the defacto complainant. In the above circumstances, I find no reason to quash the proceedings in C.C.No.319 of 2016 and this petition is liable to be dismissed.

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9. Accordingly, these Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS )

To

1.The Judicial Magistrate No.VI,  
Madurai District.

2.The Inspector of Police,  
Thirunagar Police Station,  
Madurai District.

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

+2 CC to Mr.R.GANESAN, Advocate SR-71964.

**Cr1.O.P.(MD) Nos.2287 and 2289 of 2017**  
**and**  
**Cr1.M.P(MD) Nos.1804 and 1805 of 2017**

**27.06.2019**

CS(26.07.2019) 3P 6C