



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2019

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P. (MD) No.4299 of 2017

and

Crl.M.P. (MD) .Nos.3097 & 3098 of 2017

1.Jawahar
2.Dhanapackiam : Petitioners/Accused 1 and 2

Versus

G.Vijaya : Respondent/Complainant

Prayer: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records relating to the private complaint in C.C.No.17 of 2017, on the file of the learned Judicial Magistrate Court No.2, Madurai and quash the same.

For Petitioners : Mr.R.Gandhi
For Respondent : Mr.V.Thirumal

O R D E R

This petition has been filed to quash the private complaint in C.C.No.17 of 2017, on the file of the learned Judicial Magistrate No.2, Madurai.

2.The first petitioner is working as a District Youth Co-ordinator and the second petitioner is working as an Accountant in the Nehru Yuva Kendra at Madurai. The respondent herein is working as an Accountant in the Nehru Yuva Kendra, Ramanathapuram and her husband namely V.Gopal had undergone a treatment for kidney related problem. She had spent a sum of Rs.3,29,448/- towards her husband's medical expenses. Hence, she seeks reimbursement of medical expenses. For that purpose, she has made an application on 14.08.2014 to the first petitioner, seeking for medical reimbursement. It was also received by the first petitioner, but, he has not taken any steps to process the application. She has sent reminders on 16.11.2014 and 06.04.2015 to the first petitioner, but, that were also not properly considered by the first petitioner and applications were also not forwarded to the authorities concerned. Hence, she made a private complaint against the petitioners herein, for the offences punishable under Sections 409, 469, 477, 488 and 489 of the Indian Penal Code and the same was taken cognizance by the learned Judicial Magistrate No.2, Madurai and the learned Judicial Magistrate issued summons to the petitioners. Now to quash



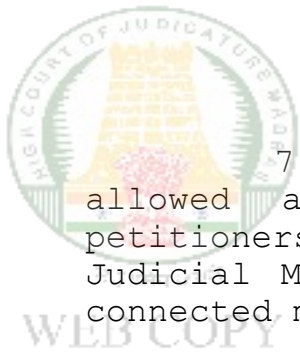
the above said private complaint, the present petition has been filed.

3.The learned counsel appearing for the petitioners would contend that a mere reading of the complaint itself shows that no offence has been made out against the petitioners for the offences under Sections 409, 469, 477, 488 and 489 of the Indian Penal Code. The learned counsel further submitted that the petitioners are working as Co-coordinator and Accountant in the Nehru Yuva Kendra, Madurai District, and they did not receive any application from the respondent. Even assuming that the applications were received and not forwarded to the competent authority for sanction, it only amounts to dereliction of duty and at any circumstances, it would not amount to criminal offence. He further added that the respondent is also working in the same department and only in order to wreck vengeance against the petitioners, she has filed the present complaint with a *mala fide* intention.

4.Per contra, the learned counsel appearing for the respondent would contend that even though the respondent has submitted applications and the entire original bills seeking for medical reimbursement to the first petitioner herein, the original bills have been destroyed by the petitioners, in order to escape from the clutches of law.

5.I have considered the rival submissions and also perused the records carefully.

6.On perusal of the entire materials available on record, it could be seen that the respondent is said to have sent applications along with necessary documents seeking for medical reimbursement to the first petitioner on 14.08.2014 through registered post and the same was also received by the first petitioner on 16.08.2014. Again the respondent sent another application on 16.11.2014 to the first petitioner herein and it was also received by him on 17.11.2014. Thereafter, the respondent sent another application on 06.04.2015 and it was also received by the first petitioner. But the first petitioner simply stated that he did not receive any application from the respondent and he did not commit any offence, as alleged by the respondent. Even assuming that the petitioners have received the applications sent by the respondent, and failed to forward it to the competent authority for consideration, it may amount to dereliction of duty in absence of any allegation that the petitioners had a criminal intention, it cannot be said that the petitioners have committed offences, as alleged by the respondent. A mere perusal of the complaint does not make out any offence as against the petitioners and the learned Judicial Magistrate, without proper application of mind, simply has taken cognizance of the matter. In the above circumstances, I am inclined to quash the criminal proceedings.



7. In the result, the Criminal Original Petition stands allowed and the criminal proceedings initiated against the petitioners in C.C.No.17 of 2017, on the file of the learned Judicial Magistrate No.2, Madurai, is quashed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar (CS)

To
The Judicial Magistrate Court No.2,
Madurai.
+1 cc Mr.V.THIRUMAL ,Advocate, SR.No. 73290

Cr1.O.P. (MD) No.4299 of 2017

Dated: 03.07.2019

TSG

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