



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2019

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.O.P. (MD)No.3368 of 2016

and

Crl.M.P (MD) No.1719 of 2016

1.Dr.Venkatesh Babu

2.Dr.Sumathi

... Petitioners

Vs.

1.The Inspector of Police,
City Crime Branch,
Tirunelveli City.

2.Dr.S.Premachandran

... Respondents

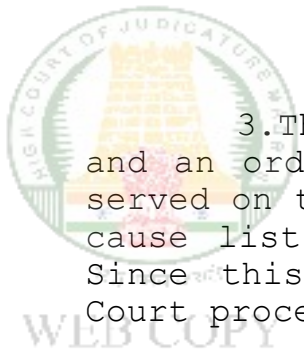
Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the First Information Report in Crime No.6 of 2016 pending on the file of the first respondent and quash the same.

For Petitioners	:	Mr.R.Anand
For R1	:	Mr.A.Robinson Government Advocate
For R2	:	No appearance

O R D E R

This Criminal Original Petition has been filed by the petitioners to quash the First Information Report pending against them in Crime No.6 of 2016 pending on the file of the first respondent police, which was instituted at the instance of the second respondent/ defacto complainant.

2.The petitioners herein, who are the accused Nos.1 and 2 are Doctors. The second respondent/ de facto complainant is also a Doctor. The case of the prosecution is that the petitioners herein have borrowed a sum of Rs.65,00,000/- from the second respondent on various dates, for which, they have executed a promissory note and also issued a cheque. It is alleged that on 11.06.2015, the petitioners approached the second respondent and have taken back the promissory note stating that they want to make certain alterations in the promissory notes. However, they did not turn back. When the second respondent presented the Cheque for collection, the same was returned for insufficient funds. When the second respondent requested the petitioners to return the money, he was criminally intimidated by them and therefore, he has lodged a complaint, based on which, the case in Crime No.6 of 2016 for the offence punishable under Sections 406, 420 and 120(b) IPC came to be registered.



3.This criminal original petition was admitted on 26.02.2016 and an order of interim stay was also granted. Though notice was served on the second respondent and his name was also printed in the cause list, there is no representation for the second respondent. Since this criminal original petition is of the year 2016, this Court proceeds with the matter.

4.According to the petitioners, with regard to the cheque in question given by them, a complaint was filed by the de facto complainant in C.C.No.128 of 2016 before the learned Judicial Magistrate No.IV, Tirunelveli for the offence punishable under Section 138 of the Negotiable Instruments Act. The learned trial judge, after conducting the trial, has found that there is no legally enforceable debt. Therefore, the complaint lodged by the de facto complainant under Section 138 of Negotiable Instruments Act, was dismissed and the petitioners were acquitted by order dated 26.02.2019.

5.When there is no legally enforceable debt between the parties, entertaining a complaint on the very same set of facts, is not proper. The First Information Report was registered for the offences punishable under Sections 406, 420 and 120(b) IPC. Since the trial Court has held that there is no legally enforceable debt, the ingredients required for attracting these offences would not arise, as such, the impugned proceedings is liable to be quashed.

6.Accordingly, this Criminal Original Petition is allowed and the First Information Report in Crime No.6 of 2016 pending on the file of the first respondent is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Inspector of Police,
City Crime Branch, Tirunelveli City.

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

+1 CC to M/s.R.ANAND, Advocate SR-53454.

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