



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

Crl.O.P (MD) No.10071 of 2019

and

Crl.M.P. (MD) No.6346 of 2019

Hariramamurthy

... Petitioner/2nd Accused

Vs

1.The State represented by
The Inspector of Police,
Bodinayakanoor Town Police Station,
Theni District.
(Crime No.431/2019)

... 1st Respondent/Complainant

2.V.Saravanan

... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to the FIR in Crime No.431 of 2019 on the file of the respondent police and quash the same.

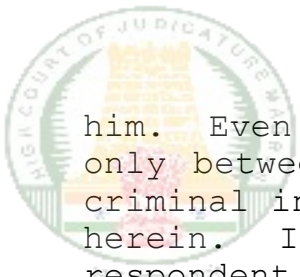
For Petitioner	: Mr.C.Jeganathan
For R1	: Mr.A.Robinson
	Government Advocate (Crl.side)
For R2	: No appearance

ORDER

Heard the learned counsel appearing for the petitioner/A2 and the learned Government Advocate(Crl.side) appearing for R1. Even though the defacto complainant has been served and his name is printed in the cause list, there is no appearance on his behalf.

2.The second respondent herein is the defacto complainant in Crime No.431 of 2009 on the file of the Inspector of Police, Bodinayakanoor Town Police Station. The case of the defacto complainant is that the first accused-Saravanan S/o Samivel had availed a loan from him and that the cheque dated 17.11.2018 issued by him in favour of the second respondent herein was dishonoured on being presented for collection. In his complaint lodged before the first respondent, the second respondent had set out the details as to how he was cheated by A1-Saravanan.

3.According to the defacto complaint, when he approached A1-Saravanan on 05.03.2019 at about 05.00 pm., demanding his money back, the petitioner herein is said to have criminally intimidated



him. Even according to the defacto complainant, the transaction was only between him and the first accused. Except the allegation of criminal intimidation, there is no real case against the petitioner herein. It is not as if the petitioner herein attacked the second respondent herein nor caused him injury.

WEB COPY

4.I find the considerable force in the submission of the petitioner's counsel that in order to recovery his dues from A1, the petitioner had been deliberately roped in. The petitioner is aged about 66 years. He is only a paternal uncle of A1. Even in the FIR, it has not been mentioned that the second respondent herein felt intimidated. It is only just and proper that the second respondent pursues his case only against A1. The implication of the petitioner in the FIR is attended by *mala fides*.

5.In this view of the matter, the impugned FIR is quashed insofar as the petitioner is concerned. It is made clear that this Court has not quashed the FIR as such. It is open to the second respondent to pursue the matter against A1. Relief is given only for A2 alone.

6.This criminal original petition is allowed as indicated above. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

The Inspector of Police,
Bodinayakanoor Town Police Station,
Theni District.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-79166[F] dated
01/08/2019)

CrI.O.P(MD)No.10071 of 2019
and
CrI.M.P. (MD)No.6346 of 2019

JM/16.08.2019/2P/3C