



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 10/09/2019
PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD). No.23567 of 2014

1. V. Nataraj,
S/o. Velandi Nadar, D.No.U55, Swantha
Nagar, 4th Cross St., Sri Rampuram,
Bangalore..

2. N. Murugeswari,
W/o. V. Nataraj, D.No.U55, Swantha
Nagar, 4th Cross St., Sri Rampuram,
Bangalore.

... Petitioners/Accused Nos.1 & 2

Vs

1. The Inspector of Police,
D-2 Perungudi Police Station,
Madurai District,
Crime No.236/2014.

... Respondent/Respondent

2. A.Sakthivel,
S/o. V. Arumugam, D.No.673/2,
Kasthuribai Colony, Near S.N. College,
Perungudi,
Madurai District.

... Respondent/Defacto Complainant

PRAYER :- This Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records of the case in Crime No.236/2014 on the file of the 1st respondent and quash the same.

For Petitioners	: Mr.C.Arul Vadivel Alias Sekar, Advocate.
For R-1	: Mr.A.Robinson, Government Advocate (Crl.Side)
For R-2	: Mr.R.Murugappan

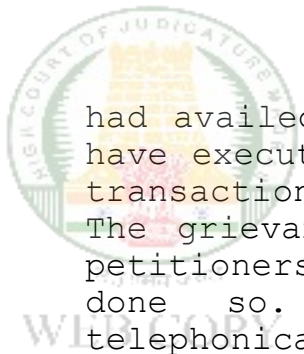
ORDER : The Court made the following order :-

This Criminal Original petition has been filed for quashing the First Information Report in Crime No.236 of 2014.

2. Heard the learned counsel on either side.

3. The second respondent Sakthivel is the defacto complainant.

<https://hccases.courts.gov.in/hccases/> the petitioners herein who were based in Bangalore



had availed a sum of Rs.10 Lakhs as a hand loan. They are said to have executed a pro-note in favour of the defacto complainant. This transaction had taken place on 01.02.2013 and again on 10.06.2013. The grievance of the defacto complainant is that even though the petitioners promised to repay the same within one year, they had not done so. According to the defacto complainant, when he telephonically contacted the petitioners on 20.09.2014 at about 06.00 p.m. and asked for his money back, the petitioners are said to have criminally intimidated him. Therefore, the second respondent lodged an information with the first respondent leading to registration of the impugned First Information Report for the offences under Sections 406, 420 and 506(i) of I.P.C.

4. A mere reading of the impugned First Information Report clearly indicates that a civil transaction has been given a criminal colour. It is a case of borrowal by the petitioners and default in the matter of repayment. This will not attract the offences under Sections 406 and 420 of I.P.C.

5. This Court is of the view that the theory of criminal intimidation has been introduced just for making the police to register the First Information Report. The only remedy open to the second respondent is to file a suit for recovery of money which is said to have been given by him to the petitioners. The very registration of First Information Report is an abuse of legal process. The impugned proceedings are quashed. The Criminal Original petition stands allowed, accordingly.

Sd/-

Assistant Registrar(CS-III)

/TRUE COPY/

Sub Assistant Registrar

TO

1. The Inspector of Police,
D-2 Perungudi Police Station,
Madurai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.MURUGAPPAN, Advocate (SR-86374[F] dated 12/09/2019)
+1 CC to M/s.C.ARUL VADIVEL@SEKAR, Advocate (SR-86313[F] dated 12/09/2019)

ORDER IN
CRL OP(MD) No.23567 of 2014
Date : 10/09/2019

pmu

<https://hcmcs3.courts.gov.in/hcserve/5C>