



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.12733 of 2019

and

Crl.M.P.(MD)Nos.7903 & 7904 of 2019

WEB COPY

1.R.Phi. Sandar

2.Rajamani,

...Petitioners /Accused 1 & 2

-Vs-

P.Vetrivel Kumar

... Respondent /Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to Call for the records relating to the Cr.M.P. No.1895 of 2019 on the file of the Additional District Munsif-Cum Judicial Magistrate, Sivagiri and quash the same as far as the petitioners are concerned.

For Petitioners

: Mr.J.Abrar MD. Abdullah

For Respondent

: Mr.P.Muthusamy

ORDER

This petition has been filed to quash the proceedings in Cr.M.P. No.1895 of 2019 on the file of the Additional District Munsif-Cum Judicial Magistrate, Sivagiri.

2. The learned counsel for the petitioners would submit that the respondent herein has lodged a private complaint for the offences under Sections, 4, 5(2) and 6 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003, before the Additional District Munsif-Cum Judicial Magistrate, Sivagiri, on 18.06.2019. On receipt of the same, the trial Court adjourned the matter on 20.06.2019 and 24.06.2019. On 24.06.2019, the trial Court straight away issued notice to the respondents therein viz., the petitioners herein.

3. Heard both sides.

4. On perusal of the records it is also revealed that the trial Court has straight away issued notice to the petitioners herein on 24.06.2019. Admittedly, the private complaint has been filed by the respondent herein under Section 200 of the Code of Criminal Procedure and the learned Magistrate without following the procedure contemplated under Sections 202 and 204 Cr.P.C., issued notice to the petitioners herein, it is a clear violation of the procedure contemplated under Sections 202 and 204 Cr.P.C. Only on



this ground alone, the entire proceedings is vitiated and liable to be quashed.

5. Accordingly, the impugned complaint, dated 18.06.2019, in Cr.M.P. No.1895 of 2019 on the file of the Additional District Munsif-Cum Judicial Magistrate, Sivagiri, is hereby quashed. This Criminal Original Petition is allowed. The matter has been remitted back to the trial Court to follow the procedure laid down under Cr.P.C. The Additional District Munsif-Cum Judicial Magistrate, Sivagiri, is directed to conduct enquiry on the complaint lodged by the respondent herein and if any cognizance is made out on the complaint, and proceed with the same, after following the procedure under Sections 202 and 204 Cr.P.C.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

Is

To

1.The Additional District Munsif-Cum Judicial Magistrate,
Sivagiri.

2. The Section Officer, (2 COPIES)
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.J.SENTHIL KUMARIAH, Advocate (SR-94752[F] dated
25/10/2019)

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