



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL.O.P.(MD)No.2845 of 2015 and

M.P.(MD)No.1 of 2015

WEB COPY

1. R.Muthuraj
2. Viji @ Vijayalakshmi ... Petitioners/Accused Nos.1 & 2

Vs.

1. The State represented by,
The Inspector of Police,
District Crime Branch,
Tirunelveli District.
(Crime No.8 of 2008)

2. M.K.Madhanagopal Raja ... Respondent/
Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the entire records pertaining to the case in C.C.No.136 of 2014 on the file of the learned Judicial Magistrate No.I, Tirunelveli, Tirunelveli District and quash the same.

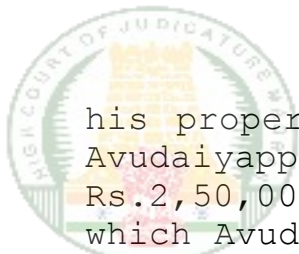
For Petitioners	: Mr.R.Anand
For R-1	: Mr.A.Robinson, Government Advocate(Crl.Side).
For R-2	: Mr.S.Palanivelayutham

ORDER

The petitioners are facing trial in C.C.No.136 of 2014 on the file of the Judicial Magistrate No.I, Tirunelveli, for the offences under Sections 406 and 420 of I.P.C.

2. Heard the learned counsel on either side.

3. The defacto complainant claims that the petitioners herein borrowed a sum of Rs.4,00,000/- from him in the year 2001. According to the defacto complainant, he was induced to part with the said sum on some assurances held out by the second accused herein. His further allegation is that in March 2002, he paid a further sum of Rs.5,00,000/-, since the accused wanted the said amount for developing their business. He would also make a further claim that one Avudaiyappan had purchased the articles from him and he owed a sum of Rs.2,00,000/- to the defacto complainant. The said Avudaiyappan has already borrowed a sum of Rs.3,00,000/- from the first accused Muthuraj. Avudaiyappan sold



his property to him for a sum of Rs.7,50,000/-. According to Avudaiyappan, accused No.1 Muthuraj gave him only a sum of Rs.2,50,000/-, as he adjusted not only a sum of Rs.3,00,000/- which Avudaiyappan has to pay to the first accused, but also a sum of Rs.2,00,000/- as Avudaiyappan has to pay to the defacto complainant. In the statement under Section 161 of Cr.P.C., the said Avudaiyappan would claim that he agreed to the suggestion as he believed that the first accused Muthuraj would hand over a sum of Rs.2,00,000/- to the defacto complainant.

4. It is strange that not only the First Information Report was registered on the strength of such allegations, but final report was also filed and cognizance of the offences was also taken by the learned trial Magistrate. There is not even a scrap of paper to sustain the allegations of the defacto complainant. There are inherently improbable. The charges have zero material on which they can be sustained. Continuance of the impugned proceedings on the strength of such baseless allegations can only be termed as an abuse of legal process.

5. The impugned criminal proceedings stand quashed. The Criminal Original petition stands allowed. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate No.I,
Tirunelveli, Tirunelveli District.
2. The Inspector of Police,
District Crime Branch,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.PALANIVELAYUTHAM, Advocate (SR-89713[F] dated 26/09/2019)

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