



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.4390 of 2015 and

M.P(MD)No.1 of 2015

WEB COPY

1. M.Saravanan
2. S.Packiyalakshmi ... Petitioners/Accused Nos.1 and 2

Vs.

1. The State represented by,
The Inspector of Police,
Thirunagar Police Station,
Madurai.
(Crime No.412 of 2014) ... Respondent/Complainant
2. P.Kamaraj ... Respondent/Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records/First Information Report pertaining to crime No.412 of 2014 on the file of the first respondent and quash the same.

For Petitioners	: Mr.R.Narayanan
For R-1	: Mr.A.Robinson, Government Advocate (Crl. Side).
For R-2	: No appearance.

O R D E R

The petitioners herein are figuring as accused in Crime No.412 of 2014 registered on the file of the Inspector of Police, Tirunelveli police station for the offences under Sections 406 and 420 of I.P.C. To quash the same, this Criminal Original petition has been filed.

2. The defacto complainant is one Kamaraj. According to him, the petitioner borrowed a sum of Rs.6 Lakhs in the year 2013. To return the same, he issued a cheque and on presentation, it was returned as dishonoured. He therefore wanted the police to take action against the petitioner herein. The petitioner's counsel would contend that going by the averments made in the First Information Report, one can easily notice that while it may be open to the defacto complainant to initiate prosecution under Section 138 of the Negotiable Instruments Act, he cannot lodge a



3. As rightly pointed out by the learned Government Advocate(Criminal Side), as per the decision of the Hon'ble Supreme Court reported in (2012) 7 SCC 621(Sangeetaben Mahendrabhai Patel Vs. State of Gujarat and another), even though a person is found guilty under Section 138 of the Negotiable Instruments Act, there is no bar for trying him independently for the offence under Section 420 of I.P.C. also. First Information Report is not an encyclopedia. Whether the ingredients under Section 420 of I.P.C. are present or not can be found out only during the investigation. But even going by the stand of the defacto complainant, the cheque in question was issued only by the first petitioner Saravanan. His wife Backiyalakshmi was unnecessarily roped in. Therefore, the impugned First Information Report is quashed as far as the second petitioner Backiyalakshmi is concerned. It will continue as far as the first petitioner is concerned.

4. The Criminal Original petition stands partly allowed. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (RECORD)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To:

1. The Inspector of Police,
Thirunagar Police Station,
Madurai.

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

+1 CC to MR.R. NARAYANAN, Advocate (SR-90826[F] dated 01/10/2019)

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