



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2019

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P. (MD)No.8476 of 2017

and

CrI.M.P. (MD)No.5724 of 2017

1.T.Saraoja
2.Martinraj
3.Selvarani

... Petitioners/ Accused No.2 to 4
-Vs-

1.State through its
The Inspector of Police,
Thallakulam (Crime) Police Station,
Madurai District,
(Crime No.1167/2017)

... Respondent/ Complainant

2.S.Arokkiam ... Respondent No.2/ Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to call for the records relating to Crime No.1167 of 2017 pending investigation on the file of the respondent police and to quash the same as illegal as against these petitioners.

For Petitioners : Mr.S.Sukumar

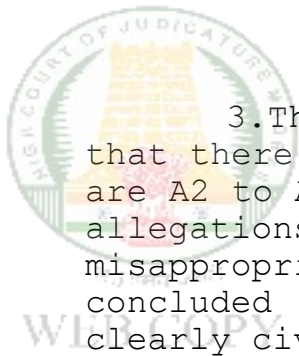
For R1 : Mr.K.Suyambu Lniga Bharathi
Government Advocate (CrI.side)

For R2 : Mr.S.Gokulraj

O R D E R

This petition has been filed seeking to quash the FIR in Crime No.1167 of 2017 pending investigation on the file of the first respondent Police.

2.It is seen from the compliant that the defacto complainant had lent a sum of Rs.3,50,000/- to the accused persons, who had borrowed the money for meeting the educational expenses. The accused persons promised to repay back the entire amount within a period of 10 days. This amount was not repaid and when the defacto complainant approached the accused persons, they evaded payment and they also threatened the defacto complainant with dire consequences. Based on this complaint, FIR has been registered for an offence under Sections 406, 420 and 120(B) of IPC.



3.The learned counsel appearing for the petitioners submitted that there are four accused persons in this case and the petitioners are A2 to A4. The learned counsel submitted that even if the entire allegations made in the complaint is taken as it is, no offence of misappropriation or cheating is made out. The learned counsel concluded his argument by submitting that the dispute, which is clearly civil in nature, has been given a criminal color.

4.Per contra, learned counsel appearing on behalf of the second respondent submitted that the accused persons had an intention to cheat the defacto complainant right from the inception. A1 had even given an undertaking to repay back the entire amount and inspite of it, he did not fulfil the promise. Therefore, the learned counsel submitted that the investigation should be continued and a time limit may be fixed by this Court for filing the final report.

5. Heard the learned Government Advocate (Crl.side) appearing on behalf of the first respondent.

6. A reading of the entire complaint shows that a sum of Rs.3,50,000/- was paid by the defacto complainant to the accused persons and it was not repaid back. It is further seen that A1 had undertaken to pay this amount and inspite of the same, he did not repay back the amount.

7. A reading of the entire complaint does not make out any offence as against the petitioners herein. Therefore, the continuation of the prosecution insofar as the petitioners are concerned is an abuse of process of law and requires interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

8.In the result, FIR in Crime No.1167 of 2017 pending investigation on the file of the first respondent police is quashed insofar as the petitioners are concerned. It is left open to the first respondent to continue further with the investigation and file a final report as against the other accused person, within a period of two months from the date of receipt of a copy of this order. This Criminal Original Petition is accordingly allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar



To

1. The Inspector of Police,
Thallakulam (Crime) Police Station,
Madurai District

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

+1 CC to M/s.R.VIJAYAKUMAR, Advocate (SR-94825[F] dated
30/10/2019)

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RMI
MS/13-11-2019/3P.4C