



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2020

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

Crl.O.P.(MD)No.16224 of 2016

and Crl.M.P.(MD)No.7889 of 2016

WEB COPY

- 1.Sekar
- 2.Selvarani
- 3.Gopal @ Gopalakrishnan
- 4.Moorthi @ Ramachandran

... Petitioners / Accused
Nos.1 to 4

Vs.

- 1.State through by
The Inspector of Police,
Alanganallur Police Station,
In Crime No.269 of 2016,
Madurai District.

... Respondent / Complainant

- 2.Arumugam

... Respondent / Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the FIR in Crime No.269 of 2016 on the file of the first respondent and quash the same.

For Petitioners : Mr.M.Subahs Babu

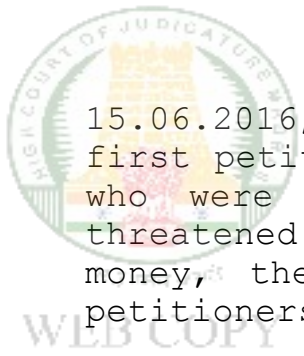
For R1 : Mr.K.Suyambulinga Bharathi,
Government Advocate(Crl.side)

For R2 : Mr.S.Ramasamy

ORDER

This petition is filed to quash the First Information Report in Crime No.269 of 2016 on the file of the first respondent.

2.According to the petitioners, the defacto complainant is a money lender. For his building contract business, the first petitioner borrowed money to the tune of Rs.14 Lakhs and when he demanded back, a promise was made to give half share in the building constructed. But later, he neither gave the promised half share in the building nor re-paid the loan money. On



15.06.2016, when the defacto complainant went to the house of the first petitioner, the first petitioner and the petitioners 2 to 4, who were in the house, abused him with filthy language and threatened the defacto complainant that if he again demand the money, they will murder the defacto complainant. Further, the petitioners assaulted the defacto complainant and pushed him down.

3. Based on the complaint, a case was registered in crime No.269 of 2016 for the offence under Sections 294(b), 323, 506(2) and 420 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. This FIR is sought to be quashed by the petitioners on the ground that the first petitioner during the month of January 2015 approached the defacto complainant for loan of Rs.7 Lakhs and promised to pay quarter percentage profit along with the principle amount. The second respondent gave a sum of Rs.6 Lakhs and obtained 28 blank cheques, pro-note and got signature in the blank papers from the first petitioner. The first petitioner agreed to pay a sum of Rs.18,000/- once in 10 days for the period of 24 months. As per his promise for the loan of Rs.6 Lakhs, the first petitioner has repaid totally a sum of Rs.12,96,000/-. On 01.06.2016, the first petitioner approached the second respondent and requested her to return the cheques and pro-notes, which was given as security. The second respondent instead of returning the cheques and pro-notes, gave evasive reply and also demanded 10% per annum interest. In this regard, the first petitioner has already given a complaint to the respondent police, in crime No.266 of 2016 for the offence under Sections 448, 294(b), 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003. Further, he has also intimated the Branch Manager of Bank of India to stop payment. After two days, the second respondent has given the impugned complaint, which has been registered in crime No.269 of 2016 dated 21.06.2016.

4. The learned counsel for the petitioners would submit that the said complaint is nothing but sheer abuse of process of law and given only to counter blast to the earlier complaint given by the first petitioner to the police on 19.06.2016. Stating that on the face of FIR, ingredients of Sections 323, 506(ii) were not made out, more particularly, Section 420 is not attracted. However, according to the complaint, the averment is failure to give half share in the building constructed, when the complaint does not whisper about the cheating. Hence, FIR has to be quashed.

5. The learned Government Advocate (Crl.side) appearing for the respondent police would submit that the defacto complainant is a money lender and the petitioners are contractors. Both the parties have given complaint against each other alleging use of



filthy language and cheating. Both the complaints are pending for investigation. Unless and until a thorough probe is made, it is difficult to find out the real culprits in the said transaction.

6. On the face of it, it appears to be a money transaction, Exorbitant interest is demanded by the defacto complainant and the same has not been meted out by the petitioners herein. As a consequence, a complaint and counter complaint have been filed. In such circumstances, quashing of FIR does not arise. There is prima facie materials available to probe the case. Hence, this criminal original petition is dismissed. Parties are directed to appear before the Investigating Officer and participate in the investigation. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl. side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Gns

To

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

Crl.O.P. (MD) No.16224 of 2016

12.03.2020

CV/ (15.05.2020) 3P 3C