



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 04.08.2020
DELIVERED ON : 27.08.2020

WEB COPY

CORAM:

THE HONOURABLE **MR. JUSTICE R. PONGIAPPAN**

Crl.O.P.(MD)No.6808 of 2020
and Crl.M.P.(MD)No.3393 of 2020

1.Chitrakala
2.Velmurugan
3.Ansa
4.Vayalur Kumaran

... Petitioners/Accused No 2 to 5

Vs.

1.The State rep.by
The Inspector of Police,
District Crime Branch,
Pudukkottai, Pudukkottai District.
(Crime No.8 of 2020)

... 1st Respondent/Complainant

2.Mathivanan

...2nd Respondents/Defacto Complainant

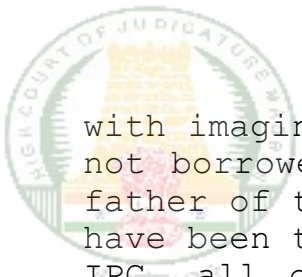
PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in FIR in crime No.8 of 2020, dated 14.03.2020 on the file of the first respondent police and quash the same against the petitioners.

For Petitioners	: Mr.M.Ramu
For R1	: Mr.S.Chandrasekar, Additional Public Prosecutor
For R2	: Mr.S.Poorna Chandran

ORDER

This criminal original petition has been filed seeking the relief to quash the First Information Report in crime No.8 of 2020, dated 14.03.2020 on the file of the first respondent police as against the petitioners.

2.The learned counsel appearing for the petitioners would submit that based on the complaint given by the second respondent, the first respondent police registered a case in crime No.8 of 2020, dated 14.03.2020 for the offence punishable under Sections 147, 148, 294(b), 323, 506(i), 447, 448, 420 IPC. He would further submit that originally the father of the second respondent filed a private complaint under Section 138 of the Negotiable Instrument Act before the learned Judicial Magistrate, Pudukkottai in S.T.C.No.848 of 2016, wherein he alleged that the first accused borrowed a sum of Rs.6,50,000/- on 20.05.2016 for his urgent need. Now for the said incident, a complaint has been preferred by the second respondent



with imaginary and un-sustainable facts. The first accused did not borrowed money neither from the second respondent nor from the father of the second respondent. The alleged occurrence was said to have been taken place in the year of 2016 and except the Section 420 IPC, all other offences are hit by the Section 468 Cr.P.C. The petitioners did not commit any offence as alleged by the second respondent and thereby, the case has been registered against the petitioners is an abuse of process of law and liable to quash.

3.Per contra, the learned Additional Public Prosecutor appearing for the first respondent would submit that the above referred FIR has been registered only as per the direction given by this Court in Crl.O.P.(MD)No.17714 of 2019, dated 29.11.2019. Before passing such order, this Court considered the order passed by the learned Judicial Magistrate, Pudukkottai in R.No.1850 of 2017 and therefore, it cannot be said that the first respondent registered the case with malicious intention. Further, in respect to the alleged occurrence, both the parties are entered into a compromise, for which joint compromise memo has also been preferred by the second respondent, further the contents of the memo is elicited the fact that the petitioners committed the offence as alleged by the second respondent.

4.Upon considering the arguments advanced by the learned counsel on either side, it is true only upon the direction given by the learned Judicial Magistrate, Pudukkottai, the first respondent had registered the case. Further, the allegation levelled by the second respondent has been admitted by the petitioners in a compromise memo dated 04.06.2020. Therefore, the petitioners cannot be said that the alleged occurrence is false, frivolous, vexatious or oppressive. Hence, the allegation levelled by the second respondent has to be tested only during the time of trial.

5.In the said circumstances, it is necessary and useful to see the judgment of our Hon'ble Apex Court in the case of **SAU. Kamal Shivaji Pokarnekar Vs. The State of Maharashtra and others** in **Crl. Appeal No.255 of 2019**, wherein our Hon'ble Apex Court has held as follows :

"Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same."

6.Hence, applying the principles set out by the Hon'ble Supreme Court in the above referred judgment, before completing the investigation, it cannot be said that the First Information Report in crime No.8 of 2020, dated 14.03.2020 has been registered with malicious intention.



7. Therefore, the petition filed by the petitioners is devoid of merits and accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (Records)

// True Copy //

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Sub Assistant Registrar(CS)

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To

1. The Inspector of Police,
District Crime Branch,
Pudukkottai, Pudukkottai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pre-Delivery Order Made in
Crl.O.P. (MD) No. 6808 of 2020
27.08.2020

KB(03.09.2020) 3P 3C