



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2020

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P.(MD)No.15633 of 2020

and

Crl.MP(MD) No.7655 of 2020

A.Periyasamy ... Petitioner/Accused 1
Vs.

1.State represented by
The Inspector of Police,
Devakottai Police Station,
Sivagangai District,
(Crime No.226 of 2020) ...1st Respondent /Complainant

2.C.Ramesh ...2nd Respondent/Defacto
Complainant

Prayer: This Criminal Original petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in Crime No.226 of 2020, on the file of the 1st respondent dated 25.06.2020 and quash the same as illegal with regard to the petitioner alone.

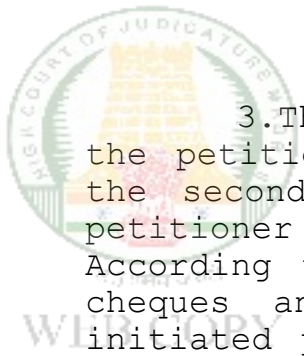
For Petitioner : Mr.T.Amjadkhan

For R1 : Mr.V.Neelakandan
Additional Public Prosecutor (Crl.side)

O R D E R

This Criminal Original Petition has been filed to quash the Crime No.226 of 2020 dated 25.06.2020, on the file of the 1st respondent.

2. The case of the prosecution is that believing the words of the petitioner and other accused that they will arrange for a huge amount of loan with low interest and processing charges alone to be paid, the second respondent has paid Rs.15,30,000/- to the accused persons, as loan processing charges. Subsequently, the amount was cheated by the accused persons. Hence, based on the complaint of the second respondent, a case in Crime No.226 of 2020 came to be registered.



3.The learned counsel for the petitioner would submit that the petitioner and the second respondent are business friends and the second respondent borrowed a sum of Rs.65 Lakhs from the petitioner and paid only a sum of Rs.15,30,000/- towards interest. According to the petitioner, the second respondent has issued two cheques and the same were dishonoured. Hence, the petitioner initiated private complaint under Section 138 of NI Act and the same was taken on file in CC No.277 of 2019. According to the petitioner, suppressing the above facts, the FIR came to be registered. Therefore, the learned counsel for the petitioner would pray to quash the FIR in Crime No.226 of 2020 on the file of the 1st respondent.

4.The learned Additional Public Prosecutor (Crl.side) appearing for the 1st respondent would state that totally 13 previous cases are pending against the petitioner on the same nature of offences and strongly object for quashing the FIR.

5.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor (Crl.side) appearing for the 1st respondent and perused the materials available on record. Since no adverse order is going to be passed, notice to the 2nd respondent is dispensed with.

6.The Hon'ble Supreme Court by judgment dated 02.12.2019 in **Crl.A.No.1817 of 2019 in the case of M.Jayanthi vs. K.R.Meenakshi and another** has held as follows:-

'9.It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.'

7.Here in the present case, the complainant had made specific allegations in the complaint filed against the petitioner and therefore, the grounds raised in this petition can be gone into only in a full-fledged trial. Considering the facts and circumstances of the case, this Court is not inclined to quash the FIR in Crime No.226 of 2020, on the file of the 1st respondent.



8. Accordingly, this Criminal Original Petition is dismissed.
Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Inspector of Police,
Devakottai Police Station,
Sivagangai District,
(Crime No.226 of 2020)
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.15633 of 2020

and

Cr1.MP(MD) No.7655 of 2020

23.12.2020

MJ (CO)

NR (18/01/2020) 3P : 3C