



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2020

CORAM:

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

WEB COPY

Crl.O.P.(MD)Nos.14572 and 15317 of 2016

and

Crl.M.P.(MD)Nos.6821, 6822, 7210 and 7211 of 2016

Boominathan, S/o.Jegannatha Pillai

Murugan, S/o.Boominathan

.. Petitioners in

Crl.O.P.(MD)No.14572/2016 /

A1 and A2

P.K.Angappan

.. Petitioner in

Crl.O.P.(MD)No.15317/2016 /A3

Vs.

T.R.Jeyaraman

.. Respondent in

both the Crl.O.Ps. / Complainant

**Prayer in both the Crl.O.Ps.:-** Petitions are filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the impugned private complaint of the respondent in C.C.No.177 of 2016, on the file of the Judicial Magistrate Court No.IV, Madurai, and quash the same.

For Petitioners

in both the Crl.O.Ps. : Mr.V.S.Kumaraguru

For Respondent

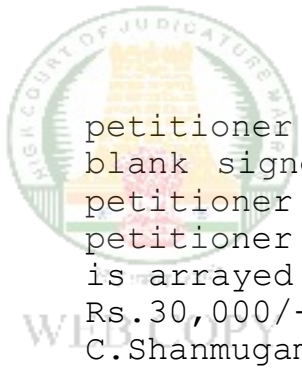
in both the Crl.O.Ps. : No Appearance

### **COMMON ORDER**

Heard the learned counsel appearing for the petitioners in both the Criminal Original Petitions, which are arising from C.C.No.177 of 2016, on the file of the Judicial Magistrate Court No.IV, Madurai.

2.The respondent herein has given a private complaint to the learned Judicial Magistrate No.IV, Madurai, against the petitioners/A1 to A3 and one C.Shanmugam/A4 for the alleged offences under Sections 406, 420, 463, 467, 468 and 469 I.P.C. The learned Judicial Magistrate No.IV, Madurai, has taken the said complaint on file and assigned C.C.No.177 of 2016.

3.The gist of the complaint is that on 15.07.2004, the respondent herein cleared all the debts borrowed from the first

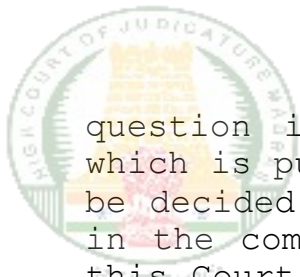


petitioner in Crl.O.P.(MD)No.14572/2016 [A1]. However, holding the blank signed pro-notes, the first petitioner/A1 and his son/second petitioner [A2] have set up one P.K.Angappan [A3], who is the petitioner in Crl.O.P.(MD)No.15317 of 2016 and one C.Shanmugam, who is arrayed as A4 and caused notice as if the respondent has borrowed Rs.30,000/- from P.K.Angappan/A3 and Rs.1,00,000/- from C.Shanmugam/A4. The said pro-notes and the alleged borrowing created by the petitioners 1 and 2 in Crl.O.P.(MD)No.14572 of 2016 are false. Hence, the petitioners in Crl.O.P.(MD)No.14572 of 2016/A1 and A2 and the petitioner in Crl.O.P.(MD)No.15317 of 2016/A3 along with C.Shanmugam/A4, have committed breach of trust, forgery, cheating and falsification of documents. Hence, complaint under Section 200 Cr.P.C. before the learned Judicial Magistrate No.IV, Madurai.

4.This complaint is now under challenge in these Criminal Original Petitions and sought to be quashed on the ground that the contention of the respondent/complainant is false and far from truth. For the borrowing and execution of pro-notes, P.K.Angappan and C.Shanmugam had filed respective suits before the competent Civil Court and decree has also been obtained. While so, instead of contesting the suit and agitating his defence before the Civil Court, to prevent the proceedings before the Civil Court initiated by the lenders, the respondent/complainant has adopted the baseless allegation for a criminal prosecution to avoid money decree from a competent Civil Court.

5.From a perusal of the complaint and the submissions made by the learned counsel appearing for the petitioners, this court finds that the allegation of the respondent/complainant that he had money transaction with the first accused Boominathan, for which, he entrusted blank cheques and pro-notes. After clearing the loan amount, the cheques and the pro-notes were not returned to the respondent. For the loan transaction with Boominathan/A1, the respondent/complainant had issued cheques. However, on presentation of the cheques, they were bounced and Boominathan/A1 has initiated criminal proceedings under Section 138 of the Negotiable Instruments Act before the Judicial Magistrate Court, Sivagangai. While so, the pro-notes, which are referred in the complaint, given in favour of the third accused - P.K.Angappan and the fourth accused - C.Shanmugam, are subject matter of civil proceedings. Any dispute regarding the genuineness of the said pro-notes has to be agitated before the Court, in which, the same have been produced. Instead of participating in the civil proceedings, the respondent/complainant has resorted to criminal complaint, which, on the face of it, does not make out any offence.

6.In the light of the fact that the pro-notes, which are alleged to be forged, had already been produced before the Court for recovery, in which, the respondent/complainant had an opportunity to



question its genuineness and enforceability. The disputed fact, which is purely civil in nature, cannot be given criminal colour and be decided by a Criminal Court. Since there is no *prima facie* case in the complaint and apparently the dispute being civil in nature, this Court finds that the complaint is pure abuse of process of law and liable to be quashed. Accordingly, both the Criminal Original Petitions are allowed and the proceedings in C.C.No.177 of 2016, on the file of the Judicial Magistrate Court No.IV, Madurai, are quashed in respect of the petitioners alone. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

The Judicial Magistrate No.IV,  
Madurai.

+2 CC to Mr.V.S.KUMARAGURU, Advocate ( SR-11208[F] dated  
11/03/2020 )

Common order in  
Crl.O.P.(MD)Nos.14572 and 15317 of 2016  
11.03.2020

VB(24.03.2020) 3P 4C