



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.15182 of 2016

and

Crl.M.P. (MD)No.7129 of 2016

WEB COPY

- 1.Thiyagarajan @ Devaraj
- 2.Ponraj
- 3.Jothimurugan
- 4.Murugasan
- 5.Murugan

... Petitioners

-vs-

- 1.State represented by
The Inspector of Police,
Edayakottai Police Station,
Dindigul District.

...Respondent/Complainant

- 2.S.M.Shek Farith

...2nd Respondent/Defacto
Complainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for the First Information Report in connection with Crime No.64 of 2016 on the file of the Inspector of Police, Edayakottai police station, Dindigul District and quash the same forthwith.

For Petitioners : Mr.G.Gomathi Sankar
For Respondents : Mr.A.Robinson
Government Advocate (Crl.side)

ORDER

This Criminal Original Petition has been filed to quash the impugned First Information Report in Crime No.64 of 2016 on the file of the Inspector of Police, Edayakottai Police Station, registered for the offences under Sections 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003, Section 467, 468, 471, 294 (b) and 506(i) of IPC. The defacto complainant is the second respondent herein. His case is that the petitioners have conspired together and prepared forged promissory notes. To quash the same, this Criminal Original Petition has been filed.

2.Heard the learned counsel on either side.

3.It is seen that the second petitioner Ponraj has filed O.S.No.850 of 2015 against the father of the defacto complainant on the file of the Sub Court, Palani. The suit was filed in December, 2015. It is seen that after receiving summons in the suit, this



First Information Report was registered on 20.04.2016.

4.It is true that a civil suit is pending in O.S.No.178 of 2016 on the file of the Sub Court, Palani, filed by the first petitioner Devaraj. But then, the defendants in the said suit is the brother of the defacto complainant namely S.M.Haja Sharib. Thus, in both suits, the defacto complainant is not figuring as the defendant.

5.The learned counsel for the petitioner on instructions states that there is no claim whatsoever against the defacto complainant. Their claim is only against his father and brother. If the grievance is that civil suits have been instituted on the strength of forged promissory notes, then it is for the respective defendants to plead it as defendants and get the suit dismissed. The second respondent herein cannot be said to be an aggrieved person.

6. It is true that criminal law can be set in motion by any person and the principle of locus standi is not strictly applicable. But then, this is not a principle of universal application. It does admit of exceptions. And the case on hand is one such. Nothing prevented the defendants in the said suit, to file a First Information Report. The second respondent herein is certainly a third party and is not directly related to the transaction in question. Besides, it is obvious that it is a counter blast to the filing of O.S.No.850 of 2016. It is well settled that if the Court come to the conclusion that the impugned prosecution is attended by malafides, it can be quashed. I come to the conclusion that the case on hand is vitiated by malafides and it has been registered inorder to wreak vengeance on the petitioners herein.

7.One of the parameters set out in **1992(1) Supp (1) SCC 335** in the case of **State of Haryana and others Vs. Bhajan lal and others** is that if an first information report has been registered out of malafide, then it is certainly a ground for quashing. This parameter is attracted in the case on hand.

8.Therefore, the impugned First Information Report in Crime No.64 of 2016 on the file of the first respondent, is quashed and this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

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To

1.The Inspector of Police,
Edayakottai Police Station,
Dindigul District.

2.The Subordinate Judge, Palani.

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

+1 CC to M/s.G.GOMATHI SANKAR, Advocate (SR-8662[F] dated
27/02/2020)

+1 CC to M/s.V.R.VENKATESAN, Advocate (SR-8616[F] dated
27/02/2020)

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