



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2020

CORAM:

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

Crl.O.P.(MD).No.16439 of 2016

and

Crl.M.P.(MD).No.8054 of 2016

M.Muniyandi ...Petitioner / Sole Accused

Vs.

1. The State through by
The Sub Inspector of Police,
Tiruppachetti Police Station,
Manamadurai Taluk,
Sivagangai District. ...1st Respondent / Complainant
(Crime No.71 of 2013)

2.A.Sekar ...2nd Respondent / De-facto complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.220 of 2014 on the file of the learned Additional District Munsif Cum Judicial Magistrate Court, Manamadurai and quash the same.

For Petitioner : Mr.V.Nagendran

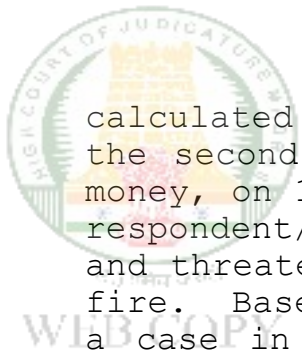
For R-1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl. Side)

For R-2 : Mr.A.Sivaji

O R D E R

This petition has been filed to quash C.C.No.220 of 2014, on the file of the Additional District Munsif-cum-Judicial Magistrate Court, Manamadurai.

2.The petitioner herein is the sole accused in the said case registered for the offences under Sections 447, 342, 294(b) and 506 (ii) of IPC. The specific case of the prosecution is that the petitioner herein, who is a money lender, advanced Rs.20,000/- loan to the second respondent/de-facto compliant, for which, he has



calculated exorbitant interest and demanding Rs.70,000/-. When the second respondent/de-facto complainant was not able to pay the money, on 19.03.2013, the petitioner went to the house of the second respondent/de-facto complainant and abused him with filthy language and threatened him if he does not pay the money, he will set him to fire. Based on this complaint, the respondent police has registered a case in Crime No.72 of 2013 and investigated the case. After recording the statement of witnesses, the respondent police has filed the final report and the same has been taken on file by the learned District Munsif-cum-Judicial Magistrate, Manamadurai.

3.The contention of the petitioner is that the second respondent herein borrowed Rs.70,000/- and promised to repay it with interest at the rate of 2% per month. When he failed to repay the money, the petitioner filed a suit in O.S.No.39 of 2004, based on the pro-note before the Additional District Munsif-Judicial Magistrate Court, Manamadurai. The said suit was decreed on 08.10.2012 and thereafter, when he tried to execute the decree, the second respondent/de-facto complainant had come out with the false complaint as if on 19.03.2013, the petitioner went to him house and threatened him with dire consequence.

4.From the reading of the final report and the statement recorded from the listed witnesses under Section 161 Cr.P.C., it appears that on 19.03.2013, the incident has taken place at the residence of the second respondent/de-facto complainant and the same has been spoken by Sekar, S/o.Arumugam, Meena, W/o.Sekar, besides the second respondent/de-facto complainant. Therefore, the contention of the petitioner that there is no witness to support the case of the second respondent/de-facto complainant is incorrect. Furthermore, from the reading of the ex-parte decree passed by the learned Additional District Munsif-cum-Judicial Magistrate, Manamadurai, it appears that the petitioner herein has advanced loan to the second respondent/de-facto complainant for interest at the rate of 2% per month, which works out to 24% per annum. The petitioner is not a registered money lender and the second respondent/de-facto complainant is not a Trader and the loan transaction is not for any commercial purpose. Therefore, 24% rate of interest per annum demanded by the petitioner herein for the loan advanced, is a sufficient admission and proof for demand of exorbitant interest. This clearly attracts the provisions of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act. In such circumstances, this Court finds that the petition to quash is not maintainable and liable to be dismissed, accordingly, it is dismissed. Consequently, connected Miscellaneous Petition is closed.

5.Registry is directed to send back the records, if any, to the Trial Court forthwith.



6.The Trial Court is directed to dispose of the case as expeditiously as possible, preferably, within six months from the date of receipt of records.

Sd/-

Assistant Registrar (P&A)

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Sub Assistant Registrar(CS)

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To

- 1.The Additional District Munsif
Cum Judicial Magistrate Court,
Manamadurai.
- 2.The Sub Inspector of Police,
Tiruppachetti Police Station,
Manamadurai Taluk,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.A.SIVAJI, Advocate (SR-10826[F] dated 10/03/2020)

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and
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VB(20.03.2020) 3P 5C