



Crl.O.P(MD)No.22329 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.12.2020**

CORAM:

THE HONOURABLE Mr.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P. (MD)No.22329 of 2016

and

Crl.M.P (MD)Nos.11606 and 11607 of 2016

WEB COPY

1.M.S.Balan

2.Prabhu

... Petitioners/Accused Nos.1 & 2

Vs.

1.The State Rep. by

The Inspector of Police,

District Crime Branch,

Dindigul,

Dindigul District.

(Cr.No.02 of 2009)

....1st Respondent/Complainant

2.M.Natrayan

...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in connection with the impugned charge sheet in C.C.No.372 of 2009 on the file of the Judicial Magistrate Court No.2, Dindigul, Dindigul District and quash the same insofar as the petitioner is concerned and to pass any other order or direction as this Hon'ble Court may deem fit and proper in the circumstances of the case.

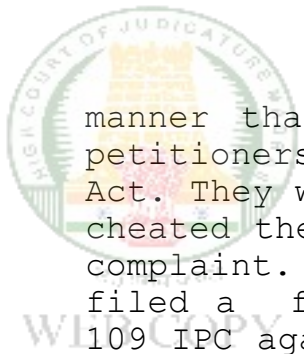
For Petitioners	: Mr.S.Saravagan Prabhu
For R1	: Mr.R.Erottuchamy
	Government Advocate (Crl.side)
For R2	: No Appearance

O R D E R

This petition has been filed to quash the proceedings in C.C.No.372 of 2009 on the file of the Judicial Magistrate Court No.2, Dindigul, Dindigul District, as against the petitioners.

2.The second respondent lodged a complaint alleging that he borrowed a sum of Rs.50,000/- from A1 and A2, who are running financial business for interest. At that time of borrowing loan, he had given five cheques and also executed a pro-note. Therefore, he paid the amount along with interest as agreed by him to the petitioners namely, A1 and A2. Admittedly, paying the entire loan, the petitioners have returned only four cheques and retained one cheque bearing No.087174 for the reasons that it was misplaced. Thereafter the petitioners received notice in a shock and surprise

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manner that the third accused initiated proceedings against the petitioners for the offence under Section 138 Negotiable Instrument Act. They were stranger to the defacto complainant and thereby, they cheated the defacto complainant only to get more money and lodged a complaint. The first respondent completed the investigation and filed a final report for the offence under Sections 406, 420 r/w 109 IPC against the three accused persons, in which the petitioners are arrayed as A1 and A2. Even according to the defacto complainant, after settling the entire amount borrowed by A1 and A2, they returned the cheques and pro-note, which was given at the time of borrowal, except the cheque bearing No.087174, since it was misplaced. Thereafter, the second respondent did not take any steps to get back the cheques from A1 and A2. Only after receipt of the summon from the proceedings initiated by the third accused for the offence under Section 138 Negotiable Instrument Act, the second respondent lodged a complaint. Even before receiving statutory notice issued under Section 138 Negotiable Instrument Act, the second respondent did not take any steps to lodge any complaint as against the petitioner. It is clear that present complaint only after thought to escape from the clutches of proceedings initiated by the third respondent under Section 138 Negotiable Instrument Act. Therefore, there is absolutely no allegation as against the petitioners to attract any offence as alleged by the second respondent herein. Even according to the defacto complaint, after repayment of the entire loan received by him, the petitioners returned the cheques and pro-note, which was obtained at the time of borrowing. Therefore, all the allegations are false and the second respondent did not make out any case as against the petitioners herein. The present impugned charge sheet is nothing but clear abuse of process of law and it cannot be sustained as against the petitioner. That apart, the impugned charge sheet in C.C.No.372 of 2009 is pending from the year of 2009. The trial is pending for the past seven years without any progress.

3.In view of the above discussions, this Criminal Original Petition is allowed and the proceedings in C.C.No.372 of 2009 on the file of the Judicial Magistrate Court No.2, Dindigul, Dindigul District is quashed as against the petitioners herein. Consequently, connected miscellaneous petitions are closed.

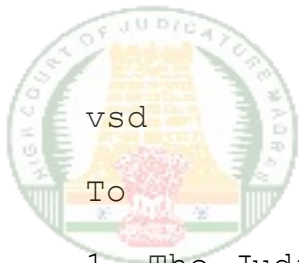
Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)



Crl.O.P(MD)No.22329 of 2016

vsd

To

1. The Judicial Magistrate Court No.2,
Dindigul,
Dindigul District

2. The Inspector of Police,
District Crime Branch,
Dindigul, Dindigul District.

**Cr1.O.P. (MD) No.22329 of 2016
and**

**Cr1.M.P (MD) Nos.11606 and 11607 of 2016
08.12.2020**

VB (19.01.2021) 3P 3C