



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P.(MD)No.9285 of 2016 and

CRL.M.P.(MD)No.4647 of 2016

WEB COPY

1. Gopala Krishnan
2. Tamil Selvi
3. Bala
4. Prabhu

... Petitioners/Accused Nos.1 to 4
Vs.

1. State rep. by,
The Inspector of Police,
B2, Keelavalavu police station,
Madurai District. ... 1st Respondent/Complainant

2. Prabhakaran ... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records in Crime No.140 of 2015 dated 28.03.2015 on the file of the first respondent police and quash the same.

For Petitioners	: Mr.S.Vellaichamy
For R-1	: Mr.A.Robinson,
	Government Advocate(Crl. Side).
For R-2	: No appearance.

ORDER

Heard the learned counsel appearing for the petitioners and the learned Government Advocate(Crl. Side) appearing for the first respondent.

2. The defacto complainant has been served and his name is also printed in the cause list, but there is no appearance on his behalf.

3. The case of the defacto complainant is that he was working as car driver for the first petitioner herein who is the proprietor of G.G.Granites. He claims that he joined service in May 2008 for a sum of Rs.7,000/- as monthly salary. According to him, the arrangement was that he would be paid a sum of Rs.3,000/- and the balance amount will be retained so that the lumpsum payment can also be made after five years at the time of his marriage. The marriage alliance of the defacto complainant was finalised in October 2012. The defacto complainant claims that he went to the house of his employer on 27.10.2012 at 8.30 a.m. and called upon him to pay the amount of Rs.2,16,000/- which was retained out of his monthly salary. The defacto complainant would claim that the petitioners gave an evasive response and sent him away. Thereafter, the defacto



complainant met the brother-in-law of the first petitioner, namely, Bala who is figuring as the third petitioner herein and demanded his money. The third petitioner is said to have given an assurance to the defacto complainant that he would take response for making payment and persuaded the defacto complainant to work in another quarry. The defacto complainant claims that he was working in the other quarry. The defacto complainant claims that on 05.03.2013, a murder attempt was made on him by running a dipper lorry over him. The defacto complainant claims that he recovered his health after spending a huge amount towards medical treatment. He was in hospital for more than six months. While so on 24.09.2013, the defacto complainant met the third petitioner and demanded his salary arrears. The third petitioner took him to the first petitioner Gopala Krishnan. The accused are said to have criminally intimidated the defacto complainant and sent him away. The defacto complainant therefore wanted the police to take action against the petitioners and to get back his salary arrears. This complaint of the defacto complainant was registered by the first respondent police in Crime No.140 of 2015 for the offences under Sections 406 and 420 of I.P.C.

4. To quash the First Information Report, this criminal original petition has been filed.

5. A mere reading of the First Information Report would clearly indicate that a version projected by the defacto complainant is highly improbable. In any event, there is no offence under Sections 406 and 420 of I.P.C. Unless there is an element of entrustment, Section 406 of I.P.C. will not be attracted. Likewise, there is nothing on record to indicate that the first respondent had withheld the amount payable to the defacto complainant. Even if that be so, I am of the view that the second respondent has given a criminal colour to his employment grievance. The very registration of the First Information Report is an abuse of legal process.

6. Therefore, the impugned First Information Report in this criminal original petition stands quashed. The criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

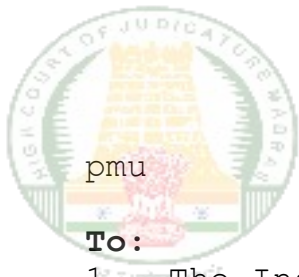
Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)



To:

1. The Inspector of Police,
B2, Keelavalavu police station,
Madurai District.

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

+1 CC to M/s.S.VELLAICHAMY, Advocate (SR-9708[F] dated 03/03/2020)

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28.02.2020

SMA/05/06/2020/3P/4C