



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.01.2020

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.O.P(MD)Nos.6166 and 1912 of 2017

and

Crl.M.P(MD)No.4123 of 2017 & 4124 of 2017

Crl.O.P(MD)No.6166 of 2017

1.Dhameem Ansari

2.Subaitha Begam ... Petitioners / Accused Nos.1 & 2

Vs

1.State through
the Inspector of Police,
District Crime Branch,
Trichy District.

[Crime No.11 of 2014] ... 1st Respondent/ Complainant

2.S.Gunasekar

... 2nd Respondent /
Defacto Complainant

Prayer: Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the charge sheet in C.C.No.313 of 2014 on the file of the Judicial Magistrate No.IV, Trichy and quash the same.

For Petitioners: Mr.M.Subash Babu

For Respondent : Mr.R.Anandharaj
No.1

For Respondent : Mr.N.Sivasubramani
No.2

Crl.O.P(MD)No.1912 of 2017

Gunasekaran

... Petitioner /
Defacto complainant

Vs



State represented by
the Inspector of Police,
District Crime Branch,
Trichy District.

[Crime No.11 of 2014]

... Respondent / Complainant

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Prayer: Petition filed under Section 482 of the Criminal Procedure Code, to expedite the trial in C.C.No.313 of 2014 pending on the file of the learned Judicial Magistrate Court No.IV, Tiruchirappalli within the time frame that may be stipulated by this Court.

For Petitioner : Mr.N.Sivasubramani
For Respondent : Mr.R.Anandharaj

COMMON ORDER

Since both these Criminal Original Petitions are arising out of C.C.No.313 of 2014, on the file of the learned Judicial Magistrate Court No.IV, Tiruchirappalli, they are heard together and disposed of by this common order.

2.Criminal Original Petition in Crl.OP(MD)No.6166 of 2017 has been filed by accused Nos.1 and 2 in C.C.No.313 of 2014 on the file of the learned Judicial Magistrate No.IV, Tiruchirappalli to quash the proceedings in C.C.No.313 of 2014.

3.The second respondent / defacto complainant has lodged a complaint as against these petitioners on 11.04.2014 that the petitioners have borrowed money from the second respondent / defacto complainant on various occasions and have cheated the second respondent / defacto complainant. Based on this complaint, the first respondent Police registered a case in Crime No.11 of 2014 for the offence under Sections 420 and 506(ii) IPC.

4.The averments in the complaint are that these petitioners are known to the second respondent / defacto complainant and the defacto complainant is also a practising Advocate. The first petitioner is said to have borrowed a sum of Rupees Eight Lakh from the defacto complainant on 22.07.2010 for developing his business. Again, the first petitioner borrowed another sum of Rupees Ten Lakh on 01.01.2011 from the defacto complainant. Further, on 25.05.2011 the petitioners jointly borrowed a sum of Rupees Eighteen Lakh, on promise that they are having property to an extent of 14,400 Sqft at Sunnambukaranpatti and they are ready to execute the property in favour of the second respondent / defacto complainant. Again on 20.02.2012 the second petitioner borrowed a sum of Rs.80,000/- to redeem the jewels.



Based on this complaint, the first respondent Police without collecting any materials mechanically filed the final report as against these petitioners for the offence under Sections 420 and 506(ii) IPC.

5.The learned Counsel for the petitioners submitted that there is an allegation of borrowal of Rs.36,80,000/- from the defacto complainant from 22.07.2010. Even according to the defacto complainant there are no documents for these alleged transactions. The defacto complainant claims that on 25.02.2011, both these petitioners have borrowed a sum of Rupees Eighteen Lakh from him towards a sale of their property at Sunnambukaranpatti. Even for this transaction there is no sale agreement.

6.It is not the case of the complainant that there was any sale agreement in this connection. Even after the transaction said to have taken place on 25.02.2011, there was another transaction on 25.02.2012, wherein this defacto complainant has parted a sum of Rupees Eighty Thousand to the second petitioner to redeem her jewels and this complaint was lodged on 11.04.2014, two years after the last transaction said to have taken place on 25.02.2012.

7.It is very strange that the respondent / defacto complainant an Advocate has entered into a financial transaction with the petitioner, without any document, has parted a huge sum of Rs.36,80,000/- on various dates. This Advocate has also parted with a sum of Rupees Eighteen Lakh on 25.05.2011 for purchase of a property without even a sale agreement. The averments that the respondent / defacto complainant, a practising Advocate has parted with huge amount to the petitioner without obtaining any pronote or sale agreement appears to be artificial and these claims are not legally sustainable. The first respondent Police mechanically filed the final report without ascertaining the truth in the complaint.

9.In the result, the Criminal Original Petition in Crl.O.P (MD)No.6166 of 2017 is allowed and the proceedings in C.C.No.313 of 2014 on the file of the Judicial Magistrate No.IV, Tiruchirappalli is quashed.

10.In view of the order passed in Crl.O.P(MD)No.6166 of 2017, the Criminal Original Petition in Crl.O.P(MD)No.1912 of 2017 is dismissed and consequently, connected miscellaneous petition is closed.

11.The Registry is directed to mark a copy of this order to the Commissioner of Police, Tiruchirappalli and the Commissioner shall look into the files and verify the manner in which, the



final report has been filed in this case and shall initiate necessary disciplinary proceedings as against Officer concerned, who filed the final report in this case, if it warrants.

Sd/-

Assistant Registrar ()

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/ /2021

Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate No.IV,
Trichy.

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

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

Copy to

The Commissioner of Police,
Tiruchirappalli.

Crl.O.P(MD)Nos.6166 and 1912 of 2017

13.01.2020

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