



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.10.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Cr1.OP.No.26233/2015 and MP.No.1/2015

[Video Conferencing]

1.K.Ganesh Moorthy
2.K.Mahalingam
3.R.Krishnasamy

... Petitioners

Versus

1.The State of Tamil Nadu represented by
The Inspector of Police,
Dharapuram Police Station,
Tirupur District.

2.S.Mahesh Kumar

...Respondents

Prayer : - Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records on the file of the learned Judicial Magistrate, Dharapuram in CC.No.213/2015 and quash the same.

For Petitioners : Mr.S.Selvathirumurugan

For R1 : Mr.E.Raj Thilak
Govt.Advocate (Cr1.Side)

ORDER

- (1) Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the 1st respondent.
- (2) The present petition has been filed seeking to quash CC.No.213/2015 on the file of the learned Judicial Magistrate, Dharapuram.



(3) This petition has been filed by A1 to A3.

(4) The 1st petitioner was running M/s Sharp Electronics, at P.K. Complex, Dharapuram and the 2nd petitioner was running I.T. Zone at Dharapuram. They were both distributors of TATA DOCMO vehicle. The 3rd petitioner is the father of the 1st and 2nd petitioners.

(5) The petitioners, in the normal course of business, used to borrow money. One of the said persons who had lent money was the 2nd respondent/defacto complainant. The 2nd respondent/defacto complainant appears to have deposited a total sum of Rs.4 lakhs in two installments into the account of the 2nd petitioner. Four blank cheques were also issued as security. Differences arose between the parties and this necessitated the 2nd respondent/defacto complainant to give a complaint as against the petitioners herein and that, complaint had been taken cognizance subsequently as CC.No.213/2015.

(6) Seeking interference with the same, the present petition has been filed.

(7) I am deliberately not examining the facts in detail, owing to the fact that since summons had been issued to the witnesses, it would only be appropriate that the trial proceedings continue and since there are only five list witnesses, a direction is given to the learned Judicial Magistrate, Dharapuram, to complete trial in CC.No.213/2015 on or before 31.12.2021.

(8) It must also be mentioned that the petitioners herein had also given a complaint as against the 2nd respondent / defacto complainant on the basis of which, FIR in Crime No.1650/2010 had been registered by the Inspector of Police, Dharapuram Police Station. Subsequently, the said Investigating Agency, has filed a Closure Report - RCS Report, before the concerned Judicial Magistrate.

(9) On the previous hearing date, it was complained that the learned Magistrate had not taken that report on file and had also not issued notice to the present petitioners herein.



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(10) I am informed by Mr.S.Selvathirumurugan, learned counsel for the petitioners that subsequently, notice had been issued by the learned Judicial Magistrate, to the 2nd petitioner.

(11) It would only be appropriate that the 2nd petitioner files a Protest Petition and participates in those proceedings.

(12) A direction is also given to the learned Judicial Magistrate, Dharapuram, to dispose of the said Protest Petition on or before 31.12.2021.

(13) A request is also placed by the learned counsel for the petitioners that the 3rd petitioner who is an elderly person, aged 71 years, and who also appears to have some heart ailments, may be granted the privilege of not appearing during the course of trial. But, the learned counsel placed assurance that the 3rd petitioner would be represented by his counsel.

(14) In view of that particular fact, the presence of the 3rd petitioner alone is dispensed with. But, however, the 3rd petitioner should appear if called upon by the learned Magistrate during the course of trial in CC.No.213/2015.

(15) With the above observations and directions, the Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Judicial Magistrate,
Dharapuram.



2.do Through The Chief Judicial Magistrate,
Tiruppur.

3.The Inspector of Police,
Dharapuram police Station,
Tirupur District.

4.The Public Prosecutor
High Court, Chennai.

Cr1.OP.No.26233/2015

GPL(CO)
SB(11/11/2021)