

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.3567 of 2018

1. Mani, S/o.Muthusamy
2. Chinnasamy, S/o.Perumal Gounder
3. Radhakrihnan, S/o.Arthanari Gounder
4. Ravinathan, S/o.Karuppanna Gounder
5. Shanmugam, S/o.Ealayaperumal ... Petitioners

vs.

1. State, represented by  
The Inspector of Police,  
District Crime Branch,  
Namakkal  
(Crime No.9 of 2017)
2. Natesan, S/o.Nallaiya Gounder ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the FIR in Crime No.9 of 2017, on the file of Inspector of Police, District Crime Branch, Namakkal and to quash the same.

For Petitioners: Mr.C.Prabakaran

For Respondent : Mr.C.Raghavan,  
Government Advocate  
(Crl. Side) for R1  
Mr.M.Guruprasad for R2

ORDER

This petition has been filed to quash the FIR registered in Crime No.9 of 2017 pending investigation on the file of the first respondent.

2. The case of the prosecution is that the first petitioner and the second respondent are close relatives. The first petitioner was running a sago factory and he had obtained a loan from the Tamil Nadu Industrial Investment Corporation Limited (hereinafter referred to as TIIC). The first petitioner was not able to manage the finance and he had approached the

defacto complainant requesting for lending him money. A property was purchased to the extent of 80 cents both in the name of the first petitioner and the second respondent and this property was given as security for the loan taken from the TIIC. Thereafter, the petitioner is said to have handed over the business to the second respondent and the second respondent was administering the factory. He was unable to pay the loan to the TIIC and ultimately, the TIIC took action by locking and sealing the factory premises in the year 1999.

3. The further case of the prosecution is that the first petitioner managed to settle the amount behind the back of the second respondent to the TIIC and had redeemed the original documents given as security and thereafter, the first petitioner has proceeded to sell the property in favour of A2 to A5. Therefore, according to the second respondent, the petitioners have committed the offence of cheating. When the second respondent asked for returning back the money, he was also intimidated and therefore, according to the 2<sup>nd</sup> respondent, there was a criminal intimidation. Based on the complaint given by the second respondent, an FIR came to be registered for an offence under Sections 420 and 506(i) of IPC.

4. Heard Mr.C.Prabakaran, learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public prosecutor for first respondent and Mr.Guruprasad, learned counsel for the second respondent.

5. A reading of the entire complaint shows that there were series of transactions between the petitioner and the second respondent. The main grievance of the second respondent seems to be that the petitioner is due and payable a sum of Rs.80 lakhs and without paying this amount, the first petitioner has managed to settle the dues to the TIIC and also sold the property in favour of A2 to A5. Insofar as the transactions that had taken place between the first petitioner and the second respondent are concerned, they are purely civil in nature. The criminality steps in only at the stage when it is alleged that the first petitioner had sold the entire property to A2 to A5, even though the property stood in the joint name of the first petitioner and the second respondent.

6. This Court, in order to satisfy itself with regard to this allegation made by the second respondent, went through the sale deed executed by the first petitioner in favour of A2 to A5. It is seen from the sale deed that the first petitioner has only conveyed his share in the property and the share of the

second respondent remains intact. These are registered documents which are unimpeachable and sterling in character. Therefore, this Court can always place reliance upon such documents while considering the quash petition.

7. In view of the above discussion, this Court finds that the dispute between the second respondent and the first petitioner is purely civil in nature and an attempt has been made to give it a criminal colour. The second respondent instead of approaching the competent civil court to recover the money from the first petitioner, has chosen a wrong forum and has given a criminal complaint to the respondent police. The continuation of the investigation by the first respondent will amount to abuse of process of law and the same requires the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

8. In the result, the proceedings in Crime No.9 of 2017 is quashed and this Criminal Original Petition is allowed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,  
District Crime Branch,  
Namakkal.
2. The Public Prosecutor,  
High Court of Madras,  
Madras.

+1cc to Mr.M.Guruprasad, Advocate Sr.11510  
+1cc to Mr.C.Prabakaran, Advocate Sr.11560

Cr1.O.P No.3567 of 2018

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srg 19/03/2021