



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2021

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THE HON'BLE MS.JUSTICE R.N.MANJULA

CrI.O.P.No.3243 of 2019
and
CrI.M.P.No.2108 of 2019

1.Prabhakaran

2.Punitha Prabhakaran

..Petitioners

Vs.

1. State rep.by
the Sub Inspector of Police,
K4, Anna Nagar Police Station,
Chennai - 600 040.

2. Shanmugam

..Respondents

PRAYER : This Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, praying to call for the records and quash the proceedings in C.C.No.2318 of 2017 pending on the file of the V Metropolitan Magistrate Court, Egmore, Chennai.

For Petitioners: Mr.B.Harikrishnan

For Respondents: Mrs.G.V.Kasthuri

Additional Public Prosecutor for R1

Mrs.P.M.Subramaniam for R2

O R D E R

This petition has been filed under Section 482 Cr.P.C, to call for the records and quash the proceedings in C.C.No.2318 of 2017, pending on the file of the V Metropolitan Magistrate Court, Egmore, Chennai.

2. Petitioners 1 and 2 are husband and wife. The second respondent is the defacto complainant, who has owed some money to the petitioners and for which, he had given a cheque. Since the cheque was not honoured and returned, the petitioners have taken criminal action against the second respondent by way of



filing a complaint under Section 138 Negotiable Instruments Act, 1988 and the same was taken on file in C.C.No.1942 of 2015.

3. After an exhaustive trial, the learned trial Judge has passed the judgement on 03.01.2019, acquitting the defacto complainant. The 2nd petitioner preferred an appeal and the appeal was also dismissed.

4. Now the learned counsel for the petitioners submitted that after receiving summons in C.C.No.2381/2017, the defacto complainant has filed the complaint as a counter blast to the proceedings pending before the Magistrate. The learned counsel for the petitioners also invited the attention of this Court to the cross-examination of the defacto complainant and submitted that the defacto complainant himself has admitted in his cross-examination that he alone went to the house of the petitioners. So, it is submitted that a false case has been given.

5. On perusal of the complaint, it is seen that the defacto complainant has made the following allegations against the petitioners:

"It is stated that the defacto complainant is doing the business of buying and selling granite stones and that the petitioners, introduced themselves as business persons dealing in granite stones and having branches at various places in the world and that they are exporting granite to the said branches and they requested the complainant to export the stones to their branches. Believing their words, the complainant also exported the granite stones. However, the petitioners created problem stating that the stones are not of sterlite quality. On 02.07.2014, at about 2.00 p.m., both the petitioners along with other persons came to the office of the complainant and had forcibly taken away signed blank cheques of the complainant and also got his signatures in some blank papers. They also threatened him to do away his life if he does not give the signed cheques. The petitioners had voluntarily taken away the cheques and also threatened that if the cheque presented for payment, is not honoured, they will kill him"

6. Investigation has been completed and the Final Report has been filed before the concerned Judicial Magistrate and the case has also been taken on file. The allegations made in the complaint would show that there is prima-facie material to register the case against the petitioners under Sections 448, 294 (b) and 506 (1) & 506 (2) IPC.

7. The learned counsel for the petitioners invited the attention of this Court to various evidences and other facts in



order to prove that this is a false complaint. But this Court cannot invoke the inherent powers for the purpose of appreciating the evidence that has been available before the trial Court. Whatever points now made by the petitioners, can be their defence and that have to be substantiated before the trial Court. Since lot of facts to be found out by appreciating the evidence and other materials, this Court refrains from making such an exercise now.

8. In the result, the Criminal Original Petition is dismissed. However, it is open to the petitioners to raise the grounds of this petition as their defence, before the trial Court and substantiate the same.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

Pns

To

The Sub Inspector of Police,
K4, Anna Nagar Police Station,
Chennai - 600 040.

Copy To

The Public Prosecutor,
High Court, Madras.

+1cc to Mr.P.M.Subramaniam, Advocate, S.R.No.55682
+1cc to Mr.B.Harikrishnan, Advocate, S.R.No.55633

Cr1.O.P.No.3243 of 2019
and
Cr1.M.P.No.2108 of 2019

RSI (CO)
RGA(29/11/2021)