

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

CORAM

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Crl.O.P No.7138 of 2016

Crl MP No.3737 of 2016

A.P.Govardhan

Petitioner /Accused-2

vs.

1. State Rep. By  
The Inspector of Police (Crime),  
P3 Vysarpadi Police Station,  
Chennai 600 039

1<sup>st</sup> Respondent/Complainant

2.Kumudhavalli

..2<sup>nd</sup> respondent /  
Defacto complainant

**PRAYER:** Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.4870 of 2013 pending on the file of the learned VIII Metropolitan Magistrate Court, George Town (Amended as per order of this Court dated 02.11.2017 made in Crl MP No.1323 of 2017 in Crl OP No.7138 of 2016.

For Petitioner : Mr.N.Umapathi

For Respondent : Mr.E.Rajthilak  
learned counsel for Government  
(Crl Side) for R1  
Mr.K.Surendar for R2

**ORDER**

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.4870 of 2013 pending on the file of the learned VIII Metropolitan Magistrate Court, George Town.

2. The case of the prosecution is that the husband of Amuthavalli /defacto complainant herein was died on 2.04.1985 leaving intestate the property bearing Survey No.174/1. 174/24, Plot No.62 to an extent of 1008 sq.ft. At Old No.61, New No.55, Ayyapanthangal, Sriperumbudur Taluk, Chengalpet District. After the demise of her husband, the defacto complainant joined as an Office Assistant at Metropolitan Magistrate Court, Egmore on compassionate ground. The petitioner/Padmavathi being the close relative namely the wife of the brother-in-law of the complaint requested her to live along with her at Door No.132/656, Sathiyamoorthy Nagar, Chennai 39, after the demise of her husband. The defacto complainant handed over all the original documents related to the property. In the year 1995, the 1<sup>st</sup> accused requested a sum of Rs.10,000/- hand loan. Since, the defacto complainant was not able to pay, the said padmavathi requested to give the documents to mortgage and get Rs.10,000/- as loan. Thereafter,

the said Padmavathy informed as if she got managing the loan amount. After few days, the defacto complainant found that the documents were missing and when the same was questioned, the accused persons were given evasive reply. The defacto complainant's signature was forged by the accused persons. Therefore, the defacto complainant had lodged complaint before the Commissioner of police against the accused persons for the offences punishable under Section 468, 379, 420, 506(ii) r/w of TN Prohibition of Charging Exorbitant Interest Act, 2003. After investigation, the respondent police also filed a charge sheet and the case was tried in C.C.No.4870 of 2013 on the file of the learned VIII Metropolitan Magistrate Court. Challenging the said proceedings, the petitioner/Accused 2 filed this Criminal Original petition seeking to quash the same.

4. The learned counsel for the petitioner submitted that there is no material on record to show that any *prima facie* case has been made out against the petitioner. The learned counsel further submitted that the defacto complainant has filed a suit in O.S.No.8071 of 2005 before the City Civil Court, Chennai, which was dismissed on 17.04.2006.

4. The grounds raised by the counsel for the petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is left open to the petitioner to raise all the grounds before the Court below and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below.

5. Accordingly, this Criminal Original Petition is dismissed with a direction to the Court below to complete the proceedings in C.C.No.4870 of 2013 pending on the file of the learned VIII Metropolitan Magistrate Court, George Town, within a period of three months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No  
Internet : Yes/No  
Speaking Order/Non-Speaking Order  
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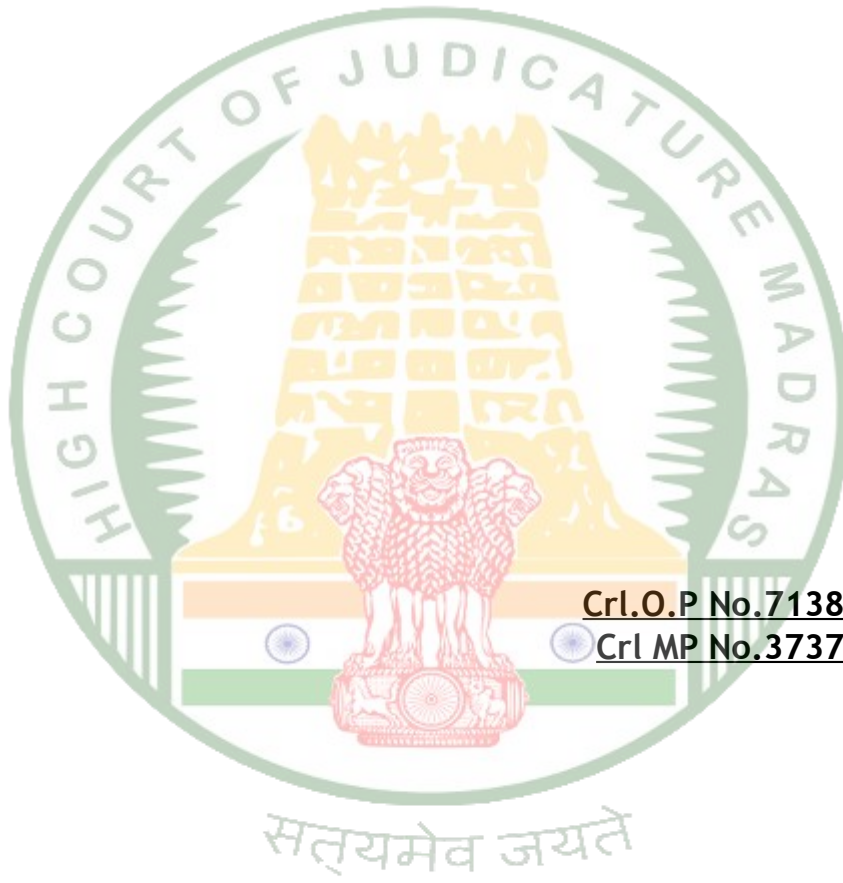
To

1. The learned VIII Metropolitan Magistrate Court, George Town
2. The Public Prosecutor, High Court, Madras



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**V.BHAVANI SUBBAROYAN.,J**



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