

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.7045 of 2021 and
Crl.M.P.Nos.4690 of 2021

1. M.Azhagausamy @ Alagusamy
 2. P.Usha
 3. C.Balakrishnan
- ... Petitioner/Accused

Versus

1. The State Rep. By
The Inspector of Police,
City Crime Branch,
Coimbatore City,
Coimbatore.
 2. Mr.Selva Singh
- ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records connected with charge sheet in C.C.No.1134 of 2020 pending on the file of learned Chief Judicial magistrate, No.7, Coimbatore.'

For Petitioner : Mr.K.Thilageeswaran

For Respondent : Mr.Mohammed Riyaz
1st respondent.

ORDER

This Criminal original petition has been filed to call for the records in connection with Charge Sheet in C.C.No.1134 of 2020, pending on the file of the learned Chief Judicial magistrate, No.7, Coimbatore.

2. The case of the prosecution is that the petitioner and his wife borrowed a hand loan of Rs.32,50,000/- from the 2nd respondent /Defacto complainant for the purpose of purchasing a land by showing the pre-approved loan sanction provided by the SBI bank. Thereafter, the petitioner had repaid Rs.10,00,000/- and a balance sum of Rs. 22,50,000/- has not been paid to the Defacto complainant. Therefore, the Defacto complainant gave a

complaint to the 1st respondent and based on the complaint given, an FIR has been registered in Crime No.40 of 2019 for the offences under Sections 406, 420, 120(b) of IPC. A charge sheet has been filed before the learned Chief Judicial Magistrate, No.7, Coimbatore. Challenging the same, the present petition has been filed before this Court.

2. The learned counsel for the petitioners submitted that the charge sheet does not constitute any cognizable offence against the petitioners. The learned counsel further submitted that it is only a commercial transaction, for which criminal colour has been given by the respondent police and hence, prays for dismissal of this petition.

3. The learned Additional Public Prosecutor submitted that based on the complaint received from the 2nd respondent/defacto complainant, an FIR has been registered. During the course of investigation, it was found that the petitioners had misappropriated the balance amount and cheated the 2nd respondent. The learned counsel further submitted that the petitioners had already filed Crl.OP No.11528 of 2020 before this Court and this Court by an order dated 04.08.2020 had dismissed the said petition and directed the respondent police to complete the investigation within a period of twelve weeks.

4. Considering the facts and circumstances of this case and the materials available on records, this Court finds that the dispute arose between the parties involves a money transaction which has to be decided before the Court below, during trial and examination of all the witnesses and the same cannot be decided by this Court in exercise of its jurisdiction under Section 482 of Cr.PC. It is made clear that the observations made herein is for the purpose of the disposal of the Criminal Original petition and the trial Court shall not be influenced by the observations made herein and decide the case on merits on the evidence received during trial in accordance with law.

5. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Judicial magistrate,
No.7, Coimbatore.

2.The Inspector of Police,
City Crime Branch, Coimbatore City,
Coimbatore.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Thilageeswaran, Advocate, S.R.No.23131

CRL.O.P.No.7045 of 2021

BR(CO)
CB(05/07/2021)



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