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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

CORAM :

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRL.O.P.NO.14186 OF 2019

AND

CRL.M.P.NOS.6875 AND 9643 OF 2019

1.D.S.Velmurugan
2.C.Natarajan
3.V.Seenivasan

...Petitioners

/versus/

M.C.Ravikumar

...Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the entire records pertaining to the case in C.C.No.1828 of 2019 on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai and quash the same as against the petitioners.

For Petitioners : Mr.N.Balasubramanian

For Respondent : Mr.K.Shakespeare

ORDER

This Criminal Original Petition has been filed seeking to call for the entire records pertaining to the case in C.C.No.1828 of 2019 on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai and quash the same as against the petitioners.

2.The learned counsel appearing for the petitioners submitted that the learned Judicial Magistrate, while taking cognizance, has not applied his judicial mind and did not opt to pass a speaking and reasoned order. In the absence of doing so, it can be well said the learned Magistrate has mechanically issued process to the petitioners. The case of the respondent, on the face of it, has to be rejected, since there is a delay in initiation of a complaint, which has not been explained at all. Accordingly to him, in the year 2011, he is said to have sent legal notice claiming that the documents given as security for the repayment of loan were not returned. In spite of it, he did not choose to give any complaint before the Court of law. At any



event, what is intended to be adjudicated by this Court in original side cannot be made as a triable issue by the learned Magistrate.

3.The learned counsel appearing for the respondent, by way of reply, submitted that, based on the private complaint, the trial Judge has examined two witnesses and recorded their statements. The trial Judge, after considering the oral and documentary evidence, has taken cognizance of offences under Sections 406 and 420 of IPC and the case was taken on file. Immediately, the petitioners have filed this petition to stall the criminal proceedings. After considering the entire facts and submissions made by the learned counsel on either side, this Court stayed all further proceedings of the case in C.C.No.1828 of 2019 on the file of the IX Metropolitan Magistrate Court, Saidapet, Chennai. Hence, the respondent has filed a vacate stay petition before this Court.

4.Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent and perused the materials available on record.

5.On a perusal of the records, it could be seen that, there was a money transaction between the petitioners and the respondent for more than Rs.2 cores and the same needs a detailed investigation. The case was taken on file, only based on the oral and documentary evidence submitted by the respondent herein before the trial Court veracity of his defence would be proved. Therefore, I do not find any irregularity to interfere with the proceedings in C.C.No.1828 of 2019 on the file of the IX Metropolitan Magistrate Court, Saidapet, Chennai, at this stage. If the petitioner is having any such defence, as alleged in this case, he has to work out his remedy before the trial Court. Hence, this Criminal Original Petition is liable to be dismissed. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

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To

1.The IX Metropolitan Magistrate,
Saidapet,
Chennai.



2.The Chief Metropolitan Magistrate,
Chennai.

+1cc to Mr.K.Shakespeare, Advocate SR.No.69231

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and
Crl.M.P.Nos.6875 and 9643 of 2019

SSI (CO)
RVM(05/01/2022)