



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 17.02.2021
DELIVERED ON : 12.03.2021

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CORAM :
THE HONOURABLE MRS. JUSTICE R. HEMALATHA
Crl.OP.(MD)No.15902 of 2020 &
Crl.MP(MD)No.7824 of 2020

1.Suresh
2.Sathya

... Petitioners

vs.

1.The state through
Inspector of Police,
Tallakulam Crime Police Station,
Madurai City.
(Crime No.328/2020)

2.Raja Hussain

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the First Information Report in Crime No.328 of 2020 on the file of the first respondent and quash the same.

For Petitioners : Mr.Niranjana S.Kumar

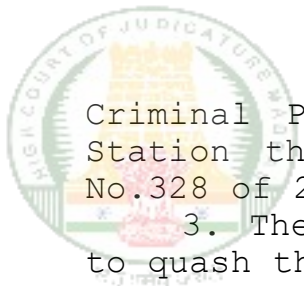
For Respondents : Mr.S.Chandrasekar,
Additional Public Prosecutor for R1
Mr.V.Sasikumar for R2

ORDER

The present petition is filed by the petitioners seeking to quash the First Information Report in Crime No.328 of 2020 of Tallakulam Crime Police Station, Madurai City.

2. Brief facts of the case of the prosecution are as follows:

The defacto complainant joined a chit fund conducted by the present petitioners / A1 and A2 and paid a sum of Rs.10,00,000/-. Though the defacto complainant demanded the said amount from the petitioners / accused they did not return the amount and on the contrary, they threatened the defacto complainant with dire consequences. The defacto complainant originally sent this complaint to the Inspector of Police, Tallakulam Police Station through registered post and since the police did not take any action, he approached the Judicial Magistrate No.II, Madurai and filed a private complaint under Section 200 of the Code of Criminal Procedure in Crl.MP.No.818 of 2020. The said complaint was forwarded to the Inspector of Police, Tallakulam Police Station for investigation and report under Section 156 (3) of the Code of



Criminal Procedure. The Inspector of Police, Tallakulam Police Station thereafter, registered First Information Report in Crime No.328 of 2020.

3. The grounds on which the present petition is filed seeking to quash the First Information Report are as follows:

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(i) The second petitioner / A2 borrowed a sum of Rs.3,00,000/- on various dates from the defacto complainant and also handed over 23 blank signed cheques to the defacto complainant.

(ii) The defacto complainant demanded an exorbitant rate of interest of Rs.15,00,000/- for the principal amount of Rs.3,00,000/- and therefore, the second petitioner lodged a complaint with the Inspector of Police, Tallakulam Police Station on 06.01.2020 under the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003.

(iii) The Inspector of Police, enquired both the petitioner and the defacto complainant and immediately on the next date, the defacto complainant deposited the cheque in the bank which was dishonoured for insufficiency of funds.

(iv) The complaint lodged by the defacto complainant is an abuse of process of law and the defacto complainant also suppressed the earlier complaint lodged by the second petitioner against her.

4. Mr.Niranjan S.Kumar, learned counsel appearing for the petitioners relied on the decision in State of Haryana vs. Bhajanlal reported in 1992 (1) SCC 335 and Lalitakumari vs. State of Uttar Pradesh reported in 2014 (2) SCC 1 and contended that the police without following the guidelines issued in both the cases have registered First Information Report and therefore, the same is liable to be quashed. He also contended that there is an abnormal delay in lodging a complaint and that the defacto complainant also suppressed the fact that he had already lodged a complaint with Inspector of Police, Karimedu Police Station with regard to the same allegations.

5. *Per contra*, Mr.V.Sasikumar, learned counsel appearing for the second respondent / defacto complainant contended that the defacto complainant never lodged a complaint with the Inspector of Police, Karimedu Police Station as alleged by the petitioners and that even if such a complaint is made in any other Police Station, it cannot be a bar for registering First Information Report by the Inspector of Police, Tallakulam Police Station. His next contention is that the defacto complainant is a daily labourer and therefore, he cannot lend a sum of Rs.3,00,000/- to the second petitioner as alleged by her. It is also his contention that the present case cannot be treated as a simple money transaction between the petitioners and the second respondent since the second petitioner had not only cheated the defacto complainant but also threatened her



6. Mr.S.Chandrasekar, learned Additional Public Prosecutor appearing on behalf of the first respondent contended that the investigation in Crime No.328 of 2020 is at initial stage and that there are specific allegations against the present petitioners / accused and therefore, prayed for dismissal of the present petition.

7. A perusal of the complaint lodged by the defacto complainant shows that the said complaint was referred to the Inspector of Police, Tallakulam Police Station by Judicial Magistrate No.II, Madurai in Crl.M.P.No.818 of 2020 for conducting investigation and the offences alleged against the present petitioners are 120 (b) and 420 of the Indian Penal Code. There is also an allegation in the complaint that the second petitioner had signed the cheque in different style and manner from her original signature with an intention commit fraud upon the defacto complainant.

8. The investigation as per the versions of the first respondent is at initial stage. In the decision in Skoda Auto Volkswagen India Private Limited vs. State of Uttar Pradesh and others reported in 2020 SCC OnLine SC 958, it has been held thus.

"It is needless to point out that ever since the decision of the Privy Council in King Emperor vs. Khwaja Nazir Ahmed, the law is well settled that Courts would not thwart any investigation. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on. As cautioned by this Court in State of Haryana vs. Bhajan Lal, the power of quashing should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. While examining a complaint, the quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or in the complaint. In S.M. Datta vs. State of Gujarat, this Court again cautioned that criminal proceedings ought not to be scuttled at the initial stage. Quashing of a complaint should rather be an exception and a rarity than an ordinary rule. In S.M. Datta (supra), this Court held that if a perusal of the first information report leads to disclosure of an offence even broadly, law courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere."



9. In view of the above, I do not find any reason to quash the First Information Report in Crime No.328 of 2020 on the file of the first respondent. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CrI Side)

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/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Inspector of Police,
Tallakulam Crime Police Station,
Madurai City.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V.SASI KUMAR, Advocate (SR-11190[F] dated 15/03/2021)

CrI.OP.(MD)No.15902 of 2020 &
CrI.MP(MD)No.7824 of 2020

12.03.2021
(2/2)

vr(CO)

KK(29.03.2021) 4P 4C