



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.04.2022

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THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CrI.OP No.7448 of 2019
& CrI MP.No.4107 of 2019

G.Mohan

..Petitioner/Accused

Vs

M.Vijayakannan

..Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the criminal case in CC No.18 of 2018 on the file of the learned Judicial Magistrate II, Ponneri and quash the same by allowing this Petition.

For Petitioner: No appearance

For Respondent: No appearance

ORDER

This petition had been filed under Section 482 Cr.P.C., to call for the records relating to the Criminal case in CC No.18 of 2018 on the file of the learned Judicial Magistrate II, Ponneri and quash the same by allowing this Petition.

2.The learned Counsel for the Petitioner advanced his arguments. As per his submissions, the Petitioner herein was arrayed as accused in a private complaint filed by the Respondent herein, which was taken cognizance by the learned Judicial Magistrate II, Ponneri in CC No.18 of 2018 under Sections 294(b) and 506(ii) of IPC and under Section 3 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act. The case of the Petitioner is that he had entered into a Sale Agreement with the Respondent. He paid a part of the sale consideration totalling a sum of Rs.4.5 lakhs as advance to the Respondent. The Respondent had agreed to execute a Sale Deed. Subsequently, for delaying the execution of the Sale Deed, the Respondent herein had approached the Inspector of Police, Sholavaram Police Station, Thiruvallur District. As a counter blast, the Petitioner herein had filed a private complaint in CC No.18 of 2018. Therefore, the Petitioner seeks to quash the



complaint in CC No.18 of 2018. The learned Counsel for the Petitioner had also invited the attention of this Court to the sworn statement recorded by the learned Judicial Magistrate II, Ponneri, which is available in the typed set of papers. The allegations made against the Petitioner herein under Sections 294(b) and 506(ii) of IPC are not at all attracted and would not constitute the alleged offences. Therefore, he seeks to quash the Criminal Case pending on the file of the learned Judicial Magistrate II, Ponneri in CC No.18 of 2018.

3. Notice was ordered to the Respondent/Defacto Complainant. His name is also printed in the cause list. No Counsel appeared on behalf of the Respondent/Defacto Complainant. In the meanwhile, remarks were called for, from the learned Judicial Magistrate II, Ponneri.

4. From the remarks of the learned Judicial Magistrate II, Ponneri, it is found that, the case had been adjourned repeatedly for sureties. On perusal of the sworn statement of the Petitioner annexed along with the typed set of papers, it is found that the Petitioner herein had given the advance amount to the Respondent/Defacto Complainant along with the pro-note and further he had forcefully extracted the Sale Agreement from the Respondent/Defacto Complainant and had received the interest beyond the permissible limit. Therefore, under the provisions of charging Exorbitant interest also, the complaint had been filed. Therefore, in the absence of the Respondent/Defacto Complainant, a Criminal case filed in CC No.18 of 2018 on the file of the learned Judicial Magistrate II, Ponneri cannot be quashed at this stage. What are all argued by the learned Counsel for the Petitioner can be treated as valuable defence available to the Petitioner herein as the accused before the learned Judicial Magistrate II, Ponneri.

5. In "State of Haryana versus Bhajan Lal, reported in 1992 Supp(1) SCC 335, the Hon'ble Supreme Court has cautioned the High Courts to exercise inherent power under Section 482 Cr.P.C. sparingly and enunciated the seven categories of cases in which, the Court can quash the proceedings, of which, one such category is where the allegations made in the FIR and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused. In the present case, on a perusal of the allegations made in the complaint by the Respondent/Defacto Complainant, it reveals that the petitioner charged exorbitant interest beyond the permissible limit for the loan taken by him and later he was threatened and forced to give undertaking letter to the effect that within three months, he should pay a sum of Rs.6 lakhs. These allegations, in the opinion of this Court, cannot be brushed aside without testing the veracity of the same by way of



trial and hence, these allegations would disclose the commission of the alleged offence. Hence, the proceedings pending on the file of the learned Judicial Magistrate II, Ponneri, cannot be quashed.

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6. In view of the above, this Criminal Original Petition is dismissed, with a direction to the learned Judicial Magistrate II, Ponneri to proceed with the trial and dispose of the case and pass appropriate orders within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate II,
Ponneri.
2. Do Thro The Chief Judicial Magistrate,
Thiruvallur.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.P.Krishnan, Advocate, S.R.No.28930

Cr1.OP No.7448 of 2019

VG-II(CO)
RGA(26/05/2022)