



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.619 of 2022

A.Nagarajan

... Petitioner

Versus

1. State rep. by the Inspector of Police - Crime,
S.R.M.C.Police,
Ayappanthangal,
Chennai.

2. R.Radhika

... Respondents

Prayer: Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to set aside the order passed by the Judicial Magistrate No.I, Poonamallee in C.M.P.No.3327 of 2021, dated 05.03.2022.

For Petitioner : Mr.K.Dhananjayan

For Respondents : Mr.S.Vinoth Kumar,
Government Advocate (Crl.Side)
for R1

: No Appearance for R2

O R D E R

This Revision is filed as against the order of the learned Judicial Magistrate No.I, Poonamallee in C.M.P.No.3327 of 2021, dated 05.03.2022, thereby, rejecting the prayer of the petitioner to refer the complaint for registering a case and investigating into it under Section 156(3) of the Code of Criminal Procedure. Upon the petition being filed, the learned Magistrate referred the complaint for the preliminary enquiry and sought for a report. Upon such reference, the Inspector of Police, S.R.M.C Police Station, submitted a report stating that the matter is civil in nature.



2. The learned Counsel for the petitioner would submit that even along with the complaint, the call records between the complainant and the accused are submitted. Upon hearing the audio call, it would be clear that it is not a case of mere borrowal and default. The second respondent, even in the audio call, is posing herself as judge of the City Civil Court, Madras. This apart, the complainant has also stated in the complaint and given in his statement that two of the promissory notes were purportedly executed by two judges which are proved to be fake and therefore, there are averments of prima facie commission of offence in the complaint and rejecting of prayer thereof is incorrect.

3. The learned Government Advocate (Crl. Side) would submit that this is a case where the learned Magistrate has already directed the preliminary investigation and the complaint is rejected since the enquiry so far revealed that the matter is civil in nature.

4. I have considered the rival submissions made on either side. A perusal of the reports submitted by the Inspector of Police and the order of the learned Magistrate would reveal that neither the audio recording, which is submitted along with the complaint nor the other allegations that the other two promissory notes, purportedly executed by the two judges, are also proved to be false, is considered. Even if it is a case of borrowal, if the respondent has posed herself as judge and with an intention to cheat, borrowed the money then defaulted, prima facie an offence under Section 420 of Indian Penal Code is made out and therefore, this Criminal Revision Case is allowed on the following terms:-

(I) the order of the learned Judicial Magistrate No.I, Poonamallee in C.M.P.No.3327 of 2021, dated 05.03.2022 is set aside;

(ii) the complaint of the petitioner, dated 04.06.2021 is forwarded to the first respondent with a direction to register a First Information Report and investigate the same in accordance with law and file a Final Report.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

grs



To

1. The Judicial Magistrate No.I,
Poonamallee
2. The Inspector of Police - Crime,
S.R.M.C.Police,
Ayappanthangal,
Chennai.
3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.K.Dhananjayan, Advocate, S.R.No.35619

Cr1.R.C.No.619 of 2022

AD(CO)
UMA(29/06/2022)