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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.22525 of 2021
and Crl.M.P.Nos.12246 & 12247 of 2021

Fahim Khan

... Petitioner

Versus

1. State represented by
The Inspector of Police,
H-2, Guduvancherry Police Station,
Chengalpet District.

2. Aforse Khan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in STC.No.387 of 2020 on the file of the Judicial Magistrate Court at Vaniyambadi and quash the same.

For Petitioner : Mr.K.Gajendran

For R1 : Mr.E.Raj Thilak
Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed to call for records in STC.No.387 of 2020 on the file of the Judicial Magistrate Court at Vaniyambadi and quash the same.

2.The petitioner is accused in a 138 case filed by the second respondent, the petitioner is facing trial in S.T.C.No.387 of 2020 pending on the file of the Judicial Magistrate Court, Vaniyambadi had filed this quash petition.

3.The points raised by the petitioner is that the petitioner paid Rs.5,00,000/- to the second respondent and the second respondent assured to take the petitioner as a partner. But the second respondent failed to do so. As such the petitioner asked the second respondent to return his investment, the second respondent repaid, part of his investment by few installments totalling to of Rs.99,000/- to the petitioner. The petitioner on several occasions requested for repayment for the money, on



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the other hand the second respondent along with the muscle men entered into the petitioner's house and threatened the petitioner and took away some cheques and used the above cheques against the petitioner and now a case filed under Section 138 of the Negotiable Instruments Act.

4.The petitioner filed a petition under Section 156 (3) Cr.P.C. in C.M.P.NO.998 of 2021 before the Judicial Magistrate No.II, Chengalpattu praying for forwarding the petitioner's complaint to the Inspector of Police, putting forth all these aspects. The learned Judicial Magistrate No.II, Chengalpattu by order dated 24.03.2021 forwarded the petitioner's complaint to the Inspector of Police, Guduvancherry Police Station, to conduct enquiry and find out whether any cognizable offence is committed or not. In the mean while, 138 case is filed. The petitioner seems to prepare a ground for his defence in the trial.

5.Considering the submissions and on perusal of the materials, this Court feels that the points raised by the petitioner are factual in nature, which are to be decided during trial. In view of the same, this Court is not inclined to entertain the above said petition.

6.Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petitions stand closed.

Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Vaniyambadi.
2. The Inspector of Police,
H-2, Guduvancherry Police Station,
Chengalpet District.
3. The Public Prosecutor,
High Court, Madras.

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PCH(CO)
CT 09/02/2022