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CRL.O.P.No.22737 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 13.12.2022**

CORAM:

**THE HON'BLE Ms.JUSTICE R.N.MANJULA**

Crl.O.P.No.22737 of 2019

P.Chandrasekaran

...

Petitioners/Accused

Versus

1.State rep by

The Inspector of Police,  
Tiruchengode Rural Police Station,  
Numakkal District.

(Crime No.318/2019)

...

Respondent

2.Thangarasu

...

2<sup>nd</sup> respondent/  
defacto complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to the FIR in Crime No.318 of 2019 on the file of the 1<sup>st</sup> respondent police and quash the same.

|                   |   |                                      |
|-------------------|---|--------------------------------------|
| For Petitioner    | : | Mr.N.Manokaran                       |
| For Respondent-1: |   | Mr.A.Gopinath<br>Government Advocate |
| For Respondent-2: |   | Mr.C.S.Saravanan                     |



## **ORDER**

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The petitioners have filed this petition to quash the FIR in Cr.No.318 of 2019, pending investigation on the file of the 1<sup>st</sup> respondent.

2. The petitioner is the sole accused in the above said case in Cr.No.318/2019 on the file of the first respondent police registered for the offences under Section 4 of the Tamilnadu Prohibition of Charging Exorbitant Interests Act, 2003 and Sec.506(i) IPC.

3. The allegation of the second respondent / *defacto* complainant is that he had availed a loan of Rs.80,000/- by offering his patta document as security; the rate of interest was mentioned at Rs.1.25 per Rs.100/-; he signed on various documents; thereafter the petitioner demanded a higher rate of interest at Rs.2 per Rs.100/-; the petitioner did not give any receipt for the payment made by the second respondent. The petitioner had taken away the hand loom machines and other related materials from the house of the *defacto* complainant towards appropriating the loan amount and he is still demanding Rs.1,25,000/-.



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4. Heard the submissions made by the learned counsel on either side and perused the materials available on record.

5. The learned counsel for the petitioner submitted that the transaction between the petitioner and the *defacto* complainant is based on the registered mortgage deed dated 22.12.2010; but in the complaint, he has suppressed the said fact and stated that he had offered his patta as security for the loan; the terms of the mortgage have been agreed by the 2<sup>nd</sup> respondent, he has affixed his signature in the mortgage deed; in fact in one of the legal notice sent by the second respondent on 15.12.2015 he had admitted the execution of the mortgage deed and also the rate of interest agreed; now by suppressing the execution of the mortgage deed and the agreed rate of interest, this complaint has been given; another notice has been sent on 11.01.2016 wherein the *defacto* complainant has stated that a settlement talks were initiated in view of the loan availed by the second respondent from the petitioner and in which, a full time settlement was agreed and the four hand looms machines and accessories have been given to the second respondent as a full quit for the loan amount availed by the *defacto* complainant.

5.1. It is further submitted that a case which is civil in nature has been



exaggerated and given with a criminal colour and hence, the proceedings as against the petitioner should be quashed.

6. The learned Government Advocate (crl.side) for the respondent police submitted that even after the execution of the mortgage deed, the petitioner had claimed exorbitant interest and had not come forward to cancel the mortgage deed and that is reason why the First Information Report is registered.

7. The records would show that the transaction was supported by the registered mortgage deed dated 22.12.2010. The terms of the loan agreement has been reduced in writing by virtue of a registered mortgage document. Under such circumstances, it is difficult to believe that the petitioner had demanded exorbitant interest beyond the agreed rate of interest. The mortgage deed was dated 22.12.2010. The complaint has been given after nine years. It is the contention of the petitioner that the petitioner did not issue any receipt for the payments made by the *defacto* complainant. In the legal notice sent by the *defacto* complainant on 15.12.2015, he has stated about the mortgage deed but in the complaint. Nothing has been stated about the mortgage deed. Further on 15.12.2015 he has stated that the petitioner



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had insisted to pay the interest at the rate of Rs.5 per Rs.100/- per month.

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8. In the complaint it is stated that the petitioner was demanding Rs.2.00 per Rs.100/- per month. So the said contradiction between the *defacto* complainant's own legal notice and the complaint would show there are certain exaggerations made in the complaint. The second respondent has not shown a single document to prove that he has repaid the principal amount. Even though the petitioner has stated about the legal notices as the foundation for his submissions, no reply has been sent for the said notice. Neither the second respondent nor the petitioner had filed any civil suit either for recovery of the mortgage amount or for redeeming the mortgage. Even though it is stated that the matter is civil in nature, the second respondent has stated about certain payments with dates. So, it is obligatory on the part of the first respondent to investigate and come out with a report whether any payment has been made or whether there are grounds to register a case for demanding exorbitant interest.

**R.N.MANJULA, J.,**

jrs



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In view of the above stated reasons, this Criminal Original Petition stands **disposed of**. The first respondent police is directed to complete the investigation and file a report within a period of one month from the date of receipt of copy of this order.

**13.12.2022**

Index: Yes/No

jrs

To:

1. The Inspector of Police,  
Tiruchengode Rural Police Station,  
Numakkal District.
2. The Public Prosecutor,  
High Court, Madras.

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