



WEB COPY

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED:08.03.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.28649 of 2018

and

CrI.M.P.No.16667 of 2018

P.Senthilkumar

...Petitioner/Accused

.Vs.

1.The State by the Inspector of Police
Ammamet Police Station
Crime No.310 of 2018
Erode District.

2.G.Murugan

...Respondents/Complainant

Prayer:Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the FIR in Crime No.310 of 2018 on the file of the first respondent Police, quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.A.Damodaran for R1
Additional Public Prosecutor

: Mr.S.Bharanidharan
for Mr.B.Mohan for R2

ORDER

This petition has been filed to call for the records relating to the FIR in Crime No.310 of 2018 on the file of the first respondent Police and quash the same by allowing this Criminal Original Petition.

2. The petitioner/accused in Crime No.310 of 2018 for offence under Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 has filed this quash application.

3. The gist of the complaint is that the petitioner who



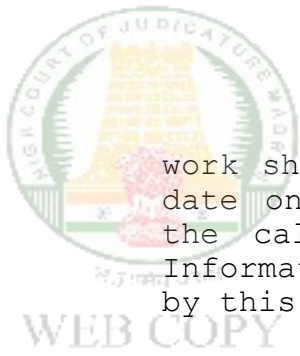
is the driver and employed in State Transport Corporation, is doing part time money lending business with interest. The defacto complainant/second respondent is a fruits vendor who came into contact with the petitioner, since the defacto complainant was regularly transporting fruit from Kerala through the same bus driven by the petitioner. For the business, he had taken a loan of Rs.4 lakhs money from the petitioner and also issued cheque during February 2016. Thereafter, he had been regularly paying exorbitant interest and so far he had paid a sum of Rs.23,74,000/- and thereafter, his business suffered and he was unable to pay the amount and using the cheque which was earlier issued in the year 2016, the petitioner is said to have filled up the same and issued a statutory notice and filed a complaint against the respondent. The defacto complainant had sent a reply and also produced the relevant documents to show that he had made the interest payments.

4. The contention of the petitioner is that the First Information Report in this case came to be registered on 23.11.2018 as a counter blast to the petitioner's complaint dated 19.11.2018 under Section 138 of N.I. Act. Earlier to it, the petitioner had sent a statutory notice under Section 138 of N.I. Act on 12.10.2018 which was received by the defacto complainant/second respondent and he sent a detailed reply with false averments and a therefore, a complaint has been lodged. The respondent as counter blast to the petitioner's complaint under Section 138 of N.I. Act, the above First Information Report has been registered. The respondent Police without verifying the particulars, for the reason best known to them, had registered the First Information Report.

5. In support of his contention, the learned counsel for the petitioner has relied upon the decisions in 1) Ashok Kumar Gupta Vs. State of Uttar Pradesh and another, reported in (2017) 11 SCC 239, 2) Mohit C. Murgai and another Vs. State rep.by the Inspector of Police, reported in 2015 (2) MWN (Cr.) 214 and this Court judgment in Rajendiran and Ors Vs. Murugan CrI.R.C.No.88 of 2014 dated 09.12.2015.

6. The learned counsel for the petitioner further submitted that the private complaint was lodged by the petitioner in the year 2018 and as a counter blast to the private complaint initially filed by the petitioner, the defacto complainant has lodged the present false complaint.

7. The learned Additional Public Prosecutor submits that on the complaint of the second respondent the First Information Report was registered and the defacto complainant produced some materials including the telephone conversation between the petitioner and the second respondent and also the



work sheet produced by the defacto complainant to show that the date on which he made the payments to the petitioner and also the calculation of exorbitant interest and hence, the First Information Report has been registered. Due to the stay granted by this Court, investigation has been stalled.

8. The second respondent/defacto complainant submitted that the petitioner had sent a legal notice on 12.10.2018 and immediately reply has been sent on 17.10.2018. In the reply, details about the loan received and also exorbitant interest paid on various dates and how the respondent had been harassed and threatened to pay the exorbitant interest and the relevant reports have been given in detail. So far he has paid a sum of Rs.23,74,000/- for taking a loan of Rs.6 lakhs. During initial payment also, interest was deducted and thereafter loan amount has been given. Further he had pledged his wife's jewels and also other articles and made the interest payments. He had got contemporary documents to prove that how he has been pressurized to make an exorbitant interest payment. He further submitted that with regard to Section 138 case which is pending trial in C.C.No.269 of 2018 before the Judicial Magistrate, Bavani, the respondent is defending his case.

9. Considering the submission and on perusal of the materials, it is seen that from the submission of the learned Additional Public Prosecutor that, apart from the complaint, the respondent has produced contemporary documents in support of his complaint to show that the petitioner has charged exorbitant interest. In view of the same, this Court is not inclined to entertain this petition at this stage. The respondent Police to conduct the investigation, in the case if there is any case made out by the petitioner, appropriate action to be taken.

10. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS)

// True Copy //

Sub Assistant Registrar

dna



To

1.The Inspector of Police
Ammamet Police Station
Crime No.310 of 2018
Erode District.

2.The Public Prosecutor
High Court Madras.

+1cc to Mr.N.Manokaran, Advocate, Sr.No.15636

Crl.O.P.No.28649 of 2018
and
Crl.M.P.No.16667 of 2018

SSD(CO)
RN(29/03/2022)