



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD) No.3542 of 2022

and Crl.M.P(MD) No.2607 of 2022

WEB COPY

Periyasamy

...Petitioner

Vs.

1. The Inspector of Police
Thathaiyangarpet Police Station
Thathaiyangarpet
Trichy District
(Crime No.272 of 2021)

2. Murugan

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for records pertaining to the FIR in Crime No.272 of 2021 on the file of the 1st respondent police and quash the same as illegal as against the petitioner.

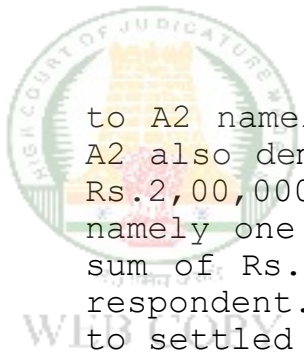
For Petitioner : M/s.Nagenthiran N V

For Respondents : Mr.R.M.Anbunithi
No.1 Additional Public Prosecutor

ORDER

This petition has been filed to quash the proceedings in Crime No.272 of 2021 on the file of the 1st respondent police.

2. The case of the prosecution is that the defacto complainant is owing agriculture land to the extent of 2.54 acres in their village, while so, since because of the urgent need of family expenses, he approached one Murugan and made request to mobilize the money as loan transaction. For which, the said Murugan introduced this petitioner to the defacto complainant/2nd respondent, at that time, this petitioner made condition, that, if he provide the loan the defacto complainant have to execute the sale deed in favour of this petitioner and the same was accepted by 2nd respondent, further on 25.01.2017 the defacto complainant executed the sale deed in favour of this petitioner and the same was registered before the Sub-Registrar, Thathaiyangar petitioner in document no.101/2017 and received the sum of 3,00,000/-. For which, the 2nd respondent paid the interest to this petitioner for sometime, after that this petitioner demand the loan amount, the same was not able to remit back by 2nd respondent. Therefore this petitioner sold the property



to A2 namely Saravanan for valuable consideration of Rs.8,20,000/-. A2 also demand the said amount, the 2nd respondent had paid a sum of Rs.2,00,000/- to A2. Thereafter A2 sold the said property to A3 namely one santhanam. While so, now the said Santhanam demanded the sum of Rs.15,60,000/- as loan amount which have to paid by the 2nd respondent. The 2nd respondent made request with A3 to give sometime to settled the said amount, but A3 threatened the 2nd respondent with dire consequences and demanded extra amount as interest for the said loan amount. Hence, the 2nd respondent lodged the complaint against this petitioner and the above said Saravanan/A2 and Santhanam/A3 before the 1st respondent police and the same was registered in Crime No.272 of 2021 dated 12.07.2021 for the offences under sections 406 and 506(1) r/w Sec.3 and 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 as against this petitioner and 2 others.

3. The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution.

4. The learned Additional Public Prosecutor would submit that the investigation is completed and the respondent police are about to file the final report before the concerned court.

5. Heard both sides and perused the materials available on record.

6. It is seen from the First Information Report that there are specific allegation as against the petitioner, which has to be investigated. Further the FIR is not an encyclopedia and it need not contain all facts. Further, it cannot be quashed in the threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

7.It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.A.No.255 of 2019*** dated **12.02.2019 - Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors.**, as follows:-

"4. The only point that arises for our consideration in this case is whether the High Court was right in setting aside the order by which process was issued. It is settled law that the Magistrate, at the stage of taking cognizance and summoning, is required to apply his judicial mind only with a view to taking cognizance of the offence, or in other words, to find out whether a prima facie case has been



made out for summoning the accused persons. The learned Magistrate is not required to evaluate the merits of the material or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to a conviction or not.

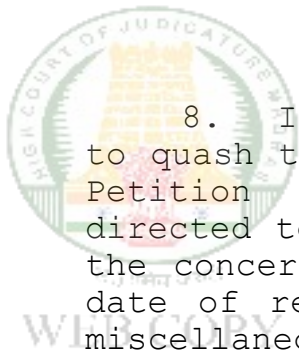
5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for the High Court to interfere.

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9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not to have set aside the order passed by the Trial Court issuing summons to the Respondents. A perusal of the complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."



8. In view of the above discussion, this Court is not inclined to quash the First Information Report. Hence this Criminal Original Petition stands dismissed. However, the respondent police is directed to complete the investigation and file final report before the concerned Magistrate, within a period of twelve weeks from the date of receipt of a copy of this Order. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar (LA&MC)

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/ /2022

Sub Assistant Registrar(CS)

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To

1. The Inspector of Police
Thathaiyangarpet Police Station
Thathaiyangarpet
Trichy District
2. The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.

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RD(07.03.2022) 4P 3C