



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 29/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.5893 of 2019

and

Crl.MP(MD)Nos.3797 and 3798 of 2019

Ravi Varma : Petitioner/Sole Accused

Vs.

1.The Inspector of Police,
District Crime Branch,
Madurai District.
(Crime No.14 of 2017) : R1/Complainant

2.Sundarrajan : R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to the case in CC No.70 of 2017 on the file of the Judicial Magistrate No.1, Madurai and quash the same.

For Petitioner : Mr.G.Karuppusamy Pandian

For 1st Respondent : Mr.SS.Madhavan
Government Advocate
(Criminal side)

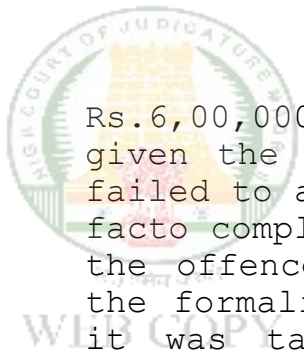
For 2nd Respondent : Mr.S.Chinnaian
(Legal Aid Counsel)

O R D E R

The petition has been filed seeking quashment of CC No.70 of 2017 on the file of the Judicial Magistrate No.1, Madurai.

2.The case of the prosecution in brief:-

The petitioner and the de-facto complainant are friends. The petitioner was working as Office Assistant in the Government Transport Corporation, Kumbakonam. The de-facto complainant approached the petitioner seeking job for his son in the Transport Corporation. For that, the petitioner demanded a sum of



Rs.6,00,000/-. On 27/12/2014 at about 11.00 am, the complainant has given the above said amount to the petitioner. But the petitioner failed to arrange the job. Based upon the complaint given by the de-facto complainant, a case in Crime No.14 of 2017 was registered for the offences under sections 420 and 506(ii) IPC. After completing the formalities of investigation, final report has been filed and it was taken cognizance in CC No.70 of 2017 by the Judicial Magistrate No.1, Madurai.

3. Seeking quashment of the same, this petitioner is before this court.

4. Heard both sides.

5. The learned counsel appearing for the petitioner would directly rely upon the debt deed entered into between the de-facto complainant and the accused, on 25/11/2015. Now the case has been registered, on 26/05/2017, which is much after the above said deed of debt. According to him, as per the terms of the deed of debt, the petitioner has stated that he borrowed a sum of Rs.6,00,000/- from the de-facto complainant, on 25/11/2015 for his urgent requirement. He has also stated that that amount will be repayable in March 2016. It was also agreed that no interest is payable. So the learned counsel appearing for the petitioner would highly rely upon the document to sustain his argument that there was purely money transaction between the parties, which has been given criminal colour, as if it is a job rocketing issue. According to him, in order to save the limitation issue, such a false complaint has been given criminal colour.

6. The question, which arises for consideration is that whether this document can be relied upon by the court to quash the proceedings.

7. It is settled proposition of law that the defence cannot be taken into consideration while exercising the jurisdiction under section 482 Cr.P.C. Only the document either admitted or of starting quality can be relied upon or taken into consideration. But here, the document, which is relied upon by the petitioner does not satisfy the requirement of law. No doubt that the document has been executed by the petitioner in favour of the de-facto complainant. The genuineness of the document and the relevancy can be considered only by the trial court at the time of trial.

8. It is further submitted that the first complaint, which was given by the de-facto complainant has been suppressed. To verify the same, the concerned CD file has been called for and perused. From the CD file, this court is not in a position to find out any such previous complaint between the parties. The copy of the document is also available in the CD file. So, there is no *prima facie* evidence that the document is the second complaint. So I am of the considered



view that the contention raised by the petitioner cannot be considered. It is a matter for trial. I find no merit in this petition and accordingly, it is liable to be dismissed.

9. In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/06/2022

Sub Assistant Registrar (CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

1. The Judicial Magistrate No.1,
Madurai.
2. The Inspector of Police,
District Crime Branch,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S. CHINNAIAN, Advocate (SR-22550[F] dated 29/04/2022)

Cr1.OP (MD) No. 5893 of 2019
29.04.2022

SS (22/06/2022) 3P 5C