



WEB COPY

Crl.O.P.(MD)No.9893 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:28/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P. (MD)No.9893 of 2019

and

Crl.MP (MD)No.6259 of 2019

Veeraputhiran

... Petitioner/A3

Vs.

1.The State rep. By
The Inspector of Police,
District Crime Branch,
Virudhunagar District,
(Crime No.4 of 2019)

... R1/Complainant

2.Michael Rajah

... R2/De-facto
Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in Crime No.4 of 2019 pending on the file the 1st respondent police and quash the same.

For Petitioner : Mr.R.Gandhi

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

For 2nd Respondent : Mr.J.Jeyakumaran

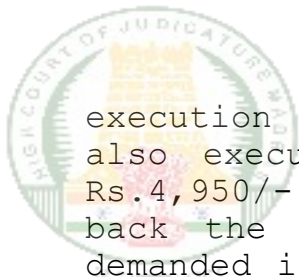
O R D E R

This criminal original petition is filed seeking quashment of Crime No.4 of 2019 pending on the file the 1st respondent police.

2.The case of the prosecution in brief:-

The 2nd respondent is the de-facto complainant herein lodged a complaint with the following allegations:- The de-facto complainant is owning property in block No.1, Survey No.4 measuring about 5 Acres and 80 cents at Kengayan Kattalai, Tirunelveli. A1 namely Mariappan was known to him. From him, he came to know that one Santhoshkumar is lending money. So, he requested A1 to arrange loan. A1 was also demanded 2% as Commission. He received Rs.4.95 lakhs from the above said Santhoshkumar. They also demanded

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execution of the mortgage deed in respect of the property. It was also executed. He was paying monthly interest at the rate of Rs.4,950/-. After payment of the entire loan amount, he demanded back the mortgage deed and discharge. A1 was evading, when he demanded it from the above said Santhoshkumar, he told that A1 did not repay the amount, which was received from the de-facto complainant. So only at the time, it came to notice that Santhoshkumar and A1 cheated him. He was also criminally intimidated by the accused. With these allegations, he made a complaint, upon which, a case in Crime No.4 of 2019 for the offences under sections 406, 420 r/w 34 IPC was registered.

3. Seeking quashment of the same, this petition has been filed on the ground that the allegations made in the FIR does not attract any of the ingredients of the offences under sections 420, 406 and 34 IPC.

4. The learned Government Advocate (Criminal side) appearing for the 1st respondent would submit that now final report has been filed before the concerned court.

5. Heard both sides.

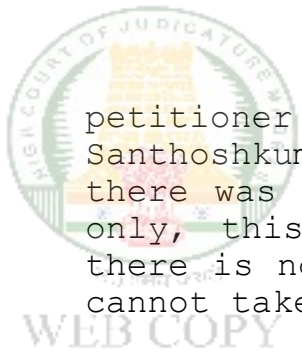
6. The petitioner is the third party herein. The main allegation against him is that he also joined hands with the other accused and because of the criminal intimidation, cheating and misappropriation, as stated in the preamble portion. The de-facto complainant was having money transaction with A1 and that was arranged by A1 herein, who is stated to be a material man.

7. As per the complaint, the first accused said to have received 2% commission for the loan amount. Even though the main amount was repaid by the Santhoshkumar through A1, it was not properly accounted by A1. So it is seen that the dispute between the de-facto complainant and Santhoshkumar and A1. In the above said transaction, how this petitioner name has been included is to be found out.

8. This petitioner is stated to be the son of A1. In the complaint, it has been stated that only as per the advise made by the Mariappan and his two sons, he obtained loan from Santhoshkumar. When that was repaid, the above Santhoshkumar failed to execute the cancellation of the mortgage deed. So all the accused persons joined together and criminally intimidated him. Except stating this, no other involvement is mentioned.

9. The learned counsel appearing for the 2nd respondent would submit that the Santhoshkumar is a middle person and this petitioner is not involved in the above said issue. By way of typed of papers, he produced the document in respect of the CC No.230 of 2016 on the file of the FTC, Srivilliputhur. It is stated in the petition that

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petitioner against Devandiran, who is the brother of the above said Santhoshkumar. In that case, Devendiran was convicted and after that there was a compromise. So because of the above said criminal case only, this false case has been foisted. Absolutely, as on date, there is no such a material available. More over that factual issue cannot taken into account at this stage.

10.Whether there was any transaction pending with the above said Santhoshkumar and A1 and the de-facto complainant is a matter for consideration during the course of trial. So this court cannot go into those aspects, which are not relevant for consideration of this petition.

11.As mentioned earlier, it has been belatedly stated in the complaint that this petitioner is also joined hands with the other co-accused persons in causing the criminal intimidation to the de-facto complainant. Only bald allegation has been made in the FIR, which has been registered for the offence under section 506(2) IPC.

12.In so far section 34 IPC is concerned, except stating that this petitioner also joined hands with A1 in advising the de-facto complainant to approach the above said Santhoshkumar for the loan amount, no other facts are mentioned. But however, since it is seen that final report report has been filed before the Judicial Magistrate No.1, Virudhunagar, the petitioner is at liberty to work out his remedy before the trial court by way of filing the discharge petition.

13.With the said liberty, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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,
Virudhunagar.

2.The Inspector of Police,
District Crime Branch,
Virudhunagar District

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J.JEYAKUMARAN, Advocate (SR-15158[F] dated
29/03/2022)

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SA(18.05.2022) 4P 5C