



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.19675 of 2021

1.Logeswaran @ Logesh
2.Ramkumar
3.Santhosh
4.Shanmugaprabhu

... Petitioner/
Accused Nos.1 to 4

Vs.

1.The State represented by
The Inspector of Police,
Medical College Police Station,
Thanjavur District.
(Crime No.695 of 2021)

... Respondent/
Complainant

2.Sridhar

... Respondent/
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the entire records pertaining to the case in C.C.No.240 of 2021 pending on the file of the learned Judicial Magistrate No.II, Thanjavur District and quash the same as far as the petitioners are concerned.

For Petitioners : Mr.R.L.Dhilipan Pandian

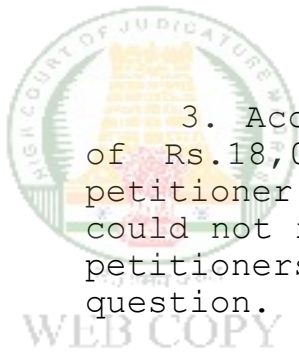
For Respondents : Mr.E.Antony Sahaya Prabahar

Additional Public Prosecutor for R.1

ORDER

Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the first respondent.

2. The petitioners are facing trial in C.C.No.240 of 2021 on the file of Judicial Magistrate No.II, Thanjavur. To quash the same, this Criminal Original Petition has been filed. The second respondent entered appearance before this Court and submitted that he has no objection for quashing the impugned proceedings. However, the petitioners called upon this Court to go into the merits of the matter and thereafter, give a disposal.



3. According to the defacto complainant, he had borrowed a sum of Rs.18,00,000/- (Rupees Eighteen Lakhs only) from the fourth petitioner herein and that amount could not be repaid. Since he could not return the amount borrowed from the fourth petitioner, the petitioners herein are said to have committed the offences in question.

4. The defacto complainant had not suffered any injury at all. He was not admitted in any hospital. There is no Wound Certificate enclosed. No Doctor has been examined. According to him, he was confined only in his house. Since the occurrence in question did not take place in public place, the offence under Section 294(b) IPC will not get attracted. It is a case where the defacto complainant, admittedly is indebted to the fourth petitioner herein. Even according to him, he could not repay the said amount. Therefore, the petitioners herein are said to have barged into the house of the defacto complainant and demanded the money back. This conduct of the petitioners herein is perfectly understandable, even it is assumed to be true.

5. I went through the statements recorded under Section 161 Cr.P.C. They are quite vague and there is considerable force in the contentions of the petitioner's counsel. In order to evade his liability, he has given the impugned complaint as a counter blast. In other words, the prosecution is the response of the defacto complainant to the demand of the fourth petitioner for repayment of the loan. If the Court comes to conclusion that the proceedings are attended by *malafides* and has been instituted to wreak vengeance, it is certainly a ground for quashing. The case on hand will definitely attract the said parameter. The impugned proceedings are quashed. The Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /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.II,
Thanjavur District.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Inspector of Police,
Medical College Police Station,
Thanjavur District.

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

Crl.O.P. (MD) No.19675 of 2021
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MGJ(08.02.2022) 3P 4C