



WEB COPY



Criminal Original Petition No.1686 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 03.07.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**Criminal Original Petition No.1686 of 2022**

**and**

**CrI.M.P.No.681 of 2022**

1.A.Suresh  
S/o.Anandan

2.V.Swapna  
W/o.A.Suresh

...Petitioners

Vs

1.State represented by  
The Sub-Inspector of Police,  
E-1, Mylapore Police Station,  
Chennai - 600 004.

2.Velu

... Respondents

**PRAYER** : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for the records relating to FIR in Crime No.6 of 2019 on the file of first respondent and quash the same.

For Petitioners : Mr.G.Ravikumar

For Respondents : Mr.A.Gopinath  
Government Advocate [CrI.side] [R1]  
Mr.S.Vijay Anand [R2]

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**ORDER**

This petition has been filed seeking to quash the First Information Report pending investigation in Crime No.6 of 2019 on the file of first respondent.

2. Heard Mr.G.Ravikumar, learned counsel for petitioners and Mr.A.Gopinath, learned Government Advocate [Crl.side] appearing for first respondent and Mr.S.Vijay Anand, learned counsel appearing for second respondent.

3. The complaint given by second respondent is to the effect that the petitioners had received a total sum of Rs.3,46,125/- and promised to repay the same on or before 22.08.2018. However, they neglected to repay the amount and hence, the complaint was given to the first respondent. The same resulted in registering a First Information Report in Crime No.6 of 2019 for offence u/s.420 IPC.

4. In the considered view of this Court, the allegations that have been made in the First Information Report do not constitute an offence of



cheating. It is a case of borrowal of money by the petitioners from the second respondent, which has not been repaid. The offence of cheating can be made out only when there is an intention of dishonesty right from the inception. A mere breach of contract or promise cannot result in the offence of cheating. This position of law is too well-settled.

5. In the light of the above discussion, the continuation of criminal proceedings as against the petitioners will amount to abuse of process of law and the same requires the interference of this Court in exercise of its jurisdiction under Section 482 Cr.P.C.

In the result, this Criminal Original Petition is allowed and the proceedings in Crime No.6 of 2019 on the file of first respondent are hereby quashed. Consequently, connected miscellaneous petition is closed.

**03.07.2023**

Index : Yes/No  
Speaking order: Yes/No  
Neutral citation: Yes/No  
gm



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**N.ANAND VENKATESH, J**

gm

To

1.The Sub-Inspector of Police,  
E-1, Mylapore Police Station,  
Chennai - 600 004.

2.The Public Prosecutor,  
High Court, Madras.

**Criminal Original Petition No.1686 of 2022**

**03.07.2023**