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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.5316 of 2022
and Crl.MP.No.2906 of 2022

A.Devakumar, M/73 A
S/o.Arughadoss

.. Petitioner

.Vs.

1.State
Rep.by Inspector of Police
District Crime Branch
Villupuram District.
(Crime No.3 of 2022)

2.Panneeselvam

...Respondents/De facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records to the impugned FIR in Crime No.3/2022 on the file of the 1st respondent police and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.T.Mohan
Senior Counsel
for Mr.P.Dinesh Kumar

For Respondents : Mr.A.Gopinath
Government Advocate (Crl.side)
for R1

No Appearance for R2

ORDER

This criminal original petition has been filed to quash the FIR registered in

Crime No.3 of 2022, pending investigation on the file of the 1st respondent.



2.The Indian Bank had instituted a suit in O.S.No.116 of 2016 on the file of the Additional Sub Court, Tindivanam for recovery of money against the 2nd respondent and his daughter. The matter was referred to Lok Adalat for settlement and the settlement talk failed and the case was referred back to the Court. The suit was listed for hearing on 4.12.2017 and since there was no representation on the side of the plaintiff, the suit was dismissed for non-prosecution.

3.An application was filed in I.A.No.91 of 2018, seeking for restoration of the suit. This application came to be allowed by the Court below by order dated 16.11.2018, by directing each plaintiff to pay a cost of Rs.500/- to the defendant in the suit.

4.The grievance of the 2nd respondent is that the affidavit that was filed in I.A.No.91 of 2018 has been forged and it has been attested by the advocate and hence, according to the 2nd respondent, an offence has been committed. The 2nd respondent therefore made representations to the Legal Services Authority and this was forwarded to the Superintendent of Police and in turn, it was placed before the 1st respondent and the 1st respondent has registered an FIR in Crime No.3 of 2022 on 01.02.2022. This FIR was made as a subject matter of challenge in the present quash petition.

5.Heard Mr.T.Mohan, learned Senior Counsel for the petitioner and

Mr.A.Gopinath, learned Government Advocate (crl.side) for R1. The 2nd respondent



has been served with notice and the name of the 2nd respondent has also been printed in the cause list. However, there is no representation for the 2nd respondent either in person or through counsel.

6.It is the admitted case of the 2nd respondent that the alleged forgery of the affidavit had taken place in a pending proceedings in O.S.No.116 of 2016. Section 195(1)(b)(i) squarely covers the issue and if according to the 2nd respondent it is an offence that is punishable under any of the provisions u/s.193 to 195 IPC, it can be prosecuted only in accordance with the procedure contemplated u/s.340 of Cr.PC. It can never be made a subject matter of independent investigation by the police by registering an FIR. The law on this issue is now two well settled and hence, the 1st respondent should not have registered an FIR in this case. The bar u/s.195(1)(b)(i) Cr.PC, will disentitle the 1st respondent to proceed further with the investigation in this case. Hence, this Court has absolutely no hesitation to interfere with the investigation in Crime No.3 of 2022, pending on the file of the 1st respondent and it is hereby quashed.

7.In the result, this criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

11.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order



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N. ANAND VENKATESH,, J.

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To

1. Inspector of Police
District Crime Branch
Villupuram District.
2. The Public Prosecutor,
High Court of Madras,
Madras.

Crl.O.P No.5316 of 2022

11.09.2023