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Crl.O.P.No.5268 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.5268 of 2022

J.Sathish Kumar
S/o.Late Jothidurai

.. Petitioner

Vs.

1.State rep by Inspector of Police,
District Crime Branch (DCB),
Tiruvallur – 602 003

2.M.S.Giri
S/o.Subramaniam Naidu

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for entire records in Crime No.95 of 2021 on the file of the first respondent police and quash the FIR against the petitioner.

For Petitioner : Mr.L.Infant Dinesh

For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side) [R1]
No appearance [R2]



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ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in Crime No.95 of 2021 on the file of the first respondent.

2. Heard Mr.L.Infant Dinesh, learned counsel for petitioner and Mr.A.Gopinath, learned Government Advocate (Crl.Side) appearing for first respondent. Though notice has been served on the second respondent and his name has also been printed in the cause list, there is no representation on behalf of the second respondent.

3. The case of the prosecution is that the second respondent was the owner of a Theatre and he had entered into a lease agreement with one Mani and the Theatre was leased out in the year 2017. The said Mani was not able to run the Theatre since he had borrowed heavily. Hence, he approached the *de facto* complainant and sought for a loan of Rs.10,00,000/-. The *de facto* complainant also made arrangements to get this money from Veerasamy Chettiar and ultimately, the loan amount was handed over to the said Mani.



4. The petitioner took over from Mani and was running the theatre with the knowledge of the *de facto* complainant. That apart, the petitioner had settled the dues with reference to the other borrowers from whom the above said Mani had borrowed. The grievance of the second respondent is that the petitioner was not settling the sum of Rs.10,00,000/-, which was borrowed by Mani and as a result, the *de facto* complainant was forced to pay the interest to Veerasami Chettiar. It is under these circumstances, the complaint came to be given before the first respondent and a First Information Report came to be registered in Crime No.95 of 2021.

5. A plain reading of the allegations in the First Information Report show that it is a pure and simple civil transaction. Even as per the second respondent, the amount was given to the said Mani and the second respondent was expecting the petitioner to settle the dues. Even assuming that the petitioner did not settle the dues, by no stretch, it can constitute an offence of criminal breach of trust and cheating. The continuation of investigation against the petitioner will only lead to an abuse of process of law, which requires the interference of this Court in exercise of its jurisdiction under Section 482 Cr.P.C.



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N.ANAND VENKATESH, J

gm

In the light of the above discussion, this Criminal Original Petition is allowed and the proceedings in Crime No.95 of 2021 on the file of the first respondent police is quashed.

01.08.2023

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

To

- 1.The Inspector of Police,
District Crime Branch (DCB),
Tiruvallur – 602 003.
- 2.The Public Prosecutor
High Court of Madras,
Madras.

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