



Crl.O.P.No.18884 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.18884 of 2022

and

Crl.M.P.No.12485 of 2022

Abdul @ S.Abdul Rahman
S/o.Shajahan

... Petitioner

Vs.

1.The State represented by
The Inspector of Police,
Velur Police Station,
Namakkal.
Crime No.224 of 2022

2.Surya
S/o.Umanath

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records relating to the case in Crime No.224 of 2022 on the file of first respondent herein and quash the same as illegal and abuse of process of law.

For Petitioner : Mr.I.Abdul Basith

For Respondents : Mr.A.Gopinath
Government Advocate [Crl.side] [R1]



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ORDER

WEB COPY This Criminal Original Petition has been filed to quash the First Information Report in Crime No.224 of 2022 on the file of first respondent herein.

2. The second respondent gave a complaint as against five accused persons on the ground that they are charging exorbitant interest. Insofar the petitioner is concerned, the allegation made in the First Information Report is that the second respondent had borrowed a sum of Rs.1,00,000/- from the petitioner and had repaid a sum of Rs.50,000/- within a year and in spite of the same, the petitioner is said to have harassed the second respondent demanding exorbitant interest of Rs.4,000/- p.m. and threatened him. Based on this complaint, a First Information Report came to be registered against the petitioner and others in Crime No.224 of 2022 for offence u/s.4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003.

3. Heard Mr.I.Abdul Basith, 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.

4. There is no dispute with regard to the fact that the second respondent had borrowed from the petitioner. It is the specific case of the second respondent that he had borrowed a sum of Rs.1,00,000/-. The petitioner also admits the fact that the second respondent had paid a sum of Rs.42,000/- to the petitioner and what remained was the balance sum of Rs.58,000/-. For this amount, the wife of the second respondent had stood as a guarantor and had issued the cheque to the petitioner. When this cheque was deposited, it was returned with an endorsement "insufficient funds". Pursuant to the same, the petitioner has also initiated proceedings before the Judicial Magistrate, Paramathi, in STC No.1172 of 2022 for offence u/s.138 of the Negotiable Instruments Act.

5. It is also seen from records that the petitioner does not come within the category of money lender as defined under the Act. There is not even a *prima facie* case against the petitioner to attract offence u/s.4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003. That apart,



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proceedings have already been initiated u/s.138 of the Negotiable Instruments Act before the concerned Court. When the transaction has taken place through a negotiable instrument, viz., a cheque, there is no question of bringing that transaction within the scope of Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003.

6. In the light of the above discussion, the continuation of investigation against the petitioner amounts to abuse of process of law, which 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.224 of 2022 on the file of first respondent is quashed insofar as the petitioner herein is concerned. There shall be a direction to the first respondent to proceed further with the investigation as against other accused persons and a final report or a closure report, as the case may be, shall be filed before the concerned Court within a period of six

(6) months from the date of receipt of a copy of this order. Consequently,



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connected miscellaneous petition is closed.

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

1. The Inspector of Police,
Velur Police Station,
Namakkal.
Crime No.224 of 2022

2. The Public Prosecutor,
High Court, Madras.

N.ANAND VENKATESH, J



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