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Crl OP Nos.22341 & 22805 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2023

CORAM:

The HONOURABLE MS.JUSTICE R.N.MANJULA

Crl OP Nos. 22341 & 22805 of 2019
and Crl MP Nos.11599 & 11915 of 2019

Crl.O.P.No.22341 of 2019

Rajendiran

.. Petitioner

VS

1.A.Annamalai

2.State Rep. By
The Inspector of Police,
District Crime Branch,
Tiruvannamalai District.

.. Respondents

Crl.O.P.No.22805 of 2019

1.Elumalai
2.Radhakrishnan
3.Jaysankar
4.Panneerselvam

.. Petitioners

VS

1.A.Annamalai

2.State Rep. By
The Inspector of Police,
District Crime Branch,
Tiruvannamalai District.

.. Respondents



Crl OP Nos.22341 & 22805 of 2019

Prayer in Crl.O.P.No.22341 of 2019: Petition filed under Section 482 of Cr.P.C to call for the records pertaining to the registration of the case in FIR No.4 of 2018 on the file of the 2nd respondent / complainant and quash the same in so far as it relates to the petitioner / 2nd accused.

Prayer in Crl.O.P.No.22805 of 2019: Petition filed under Section 482 of Cr.P.C. to call for the records pertaining to the registration of the case in FIR in Crime No.4 of 2018, on the file of the second respondent / complainant and quash the same in so far as it relates to the petitioners / accused 1, 3 to 5.

For Petitioner(s)	:	Mr.V.Logesh
For Respondents	:	Mr.N.Nallathambi for R1 in Crl.O.P.No.22341/19
		Mr.K.G.Senthil Kumar for R2 in Crl.O.P.No.22805/19
		Mr.A.Gopinath Government Advocate (Criminal Side) for R2 in Crl.O.P.No.22341/19 for R1 in Crl.O.P.No.22805/19

COMMON ORDER

1. Crl.O.P.Nos. 22341 & 22805 of 2019 have been filed by the petitioners to call for the records pertaining to the case in Cr.No.4



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of 2018 on the file of the second respondent and quash the same. The petitioners in Crl.O.P.No.22805 of 2019 are A1,A3,A4 and A5 and the petitioner in Crl.O.P.No.22341 of 2019 is A2.

2. The case of the prosecution is that the first respondent, who is the de-facto complainant was the then Chief Manager of NLC India Limited, Neyveli. He borrowed a sum of Rs.2 lakhs from A2 and for which he had executed a promissory note. He also agreed to pay interest at the rate of 12% per annum. The said promissory note was executed on 18.06.2013 after availing loan amount on the same date. Despite the amount was re-paid by the first respondent, the first petitioner along with other petitioners continued to threaten the first respondent and demanded exorbitant interest. He also misused the documents issued by the first respondent as security for which loan amount was availed by him and hence he has given the complaint.

3. Heard the learned counsel for the parties.

4. Learned counsel for the petitioners submitted that the matter is purely civil in nature and the same pertains to money transactions between the first respondent and the first accused. The



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other accused have been unnecessarily implicated in this case. Since the first respondent did not repay the loan amount as agreed, the second accused has filed a civil suit in O.S.No.120 of 2016 on the file of the Additional Subordinate Judge, Tiruvannamalai and the same is still pending. When the suit is pending, the first respondent has given this complaint just to give a criminal colour to civil transaction and to evade from re-paying the loan.

5. Learned Government Advocate (Criminal Side) submitted that the second accused has also filed case under 138 of the Negotiable Instruments Act against the first respondent for dishonour of cheque but later allowed it to be dismissed for default. The first accused joining with the other accused had cheated the innocent people like the first respondent if they happen to borrow money from him. Since the investigation is not yet completed and the allegations in the FIR makes out a prima facie case against the petitioners, the petitions should be dismissed.

6. The first respondent had borrowed money from the second accused for which he had also executed a promissory note. The said fact was not denied by A2 and the de-facto complainant



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himself. The contention of the petitioners is that when A2 has chosen to file civil suit for recovery of money, the first respondent had filed the complaint in order to give a criminal colour for the civil transactions. The first respondent appeared to have given several documents like, blank cheques, stamp papers etc., as security for the loan amount availed by him apart from the promissory note executed by him. Though it is clear that only at the conclusion of the civil suit, the liability, if any, on the part of the first respondent can be known, it is essential to investigate and find out whether there is any imposition of exorbitant interest as alleged by the first respondent. The transactions are pertaining to the year 2013 and the suit has been filed in the year 2016, the complaint has been given only after a lapse of four years. Though delay can be one of the grounds to quash the proceedings, the delay alone cannot be the only reason to quash the proceedings, if the investigation reveals that the delay was inevitable. Even though the second accused has filed a criminal complaint against the first respondent for dis-honour of cheque, he should also be investigated whether he had abused the process of law by imposing exorbitant interest. However, taking into consideration the long delay involved in this matter, it is appropriate to give directions to the respondent /police to complete the investigation



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within a period of three months and file a final report.

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7. With the above observations, the Criminal Original Petitions stand disposed of. Consequently, connected miscellaneous petitions are closed.

09.01.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

To

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



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R.N.MANJULA.,J

ssm

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