



Crl OP No.21698 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2023

CORAM:

The HONOURABLE MS.JUSTICE R.N.MANJULA

Crl OP No.21698 of 2019
and Crl MP No.11244 of 2019

1.Elumalai
2.Rajendiran

.. Petitioners

vs

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

.. Respondents

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.5 of 2018, on the file of the second respondent / complainant and quash the same.

For Petitioners : Mr.V.Logesh

For Respondents : Mr.V.Prakash Babu
for R1

Mr.A.Gopinath
Government Advocate
(Criminal Side)
for R2



Crl OP No.21698 of 2019

ORDER

WEB COPY

1. This petition has been 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.5 of 2018, on the file of the second respondent and to quash the same.

2. The petitioners are the accused A1 and A2. The case of the prosecution is that the first respondent / de-facto complainant had availed loan of Rs.16 lakhs from A1 for meeting out his family debts, with interest at 12% per annum. The first respondent had issued a post dated cheque dated 26.11.2014 drawn on Indian bank, Tiruvannamalai Temple View Branch as security and that was misused by A2 with the connivance of A1; when the cheque was presented for collection by A2, the same was dishonoured. Therefore, A2 filed a complaint under Section 138 of Negotiable Instruments Act, on the file of Judicial Magistrate No.1, Tiruvannamalai in S.T.C.No.231 of 2015 which was transferred to Fast Track Court, Tiruvannamalai and re-numbered as S.T.C.No.89 of 2016. The first respondent / de-facto complainant lodged a complaint and based on which, a case in Crime No.5 of 2018 was registered for the offences punishable under Sections 420 and 506(i) IPC.



Crl OP No.21698 of 2019

WEB COPY

3. Heard the learned counsel for the parties.

4. The learned counsel for the petitioners submitted that the de-facto complainant has directly obtained loan from A2 only, but for the purpose of the case, he has stated that he has availed loan from A1. After availing loan from A2, he had also issued a cheque drawn in favour of A2 and that was presented for collection. But the cheque was returned for insufficient funds. After complying the legal mandates, a complaint under Section 138 of the Negotiable Instruments Act was filed before the Judicial Magistrate Court, Tiruvannamalai.

5. The learned Government Advocate (Criminal Side) submitted that originally the first respondent/defacto complainant had availed loan amount only from the first accused and he had given the blank cheque as security. A2 had misused it according to his whims and fancies and the defacto complainant is being harassed by the accused.

6. In these type of cases, it would be appropriate for the



Crl OP No.21698 of 2019

second petitioner to participate in the proceedings filed by him under Section 138 of NI Act and prove the case. But, due to the default on the part of the second accused, the complaint filed by him under Section 138 of NI Act itself got dismissed for default.

7. Under these circumstances, nothing will prevent the respondent / police to investigate and find out whether the petitioners joined together and imposed exorbitant interest and threatened the first respondent, by misusing the cheque issued by him. Since lot of facts are to be unearthed by making thorough investigation, it is appropriate to give direction to the respondent / police to complete the investigation and submit a final report within a period of three months.

8. With the above observations, the Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

09.01.2023

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



WEB COPY



Crl OP No.21698 of 2019

To

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



WEB COPY



Crl OP No.21698 of 2019

R.N.MANJULA.,J

ssm

Crl.O.P.No.21698 of 2019

11.01.2023