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CRL.O.P.No.26873 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2023

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA

Crl.O.P.No.26873 of 2019

and

Crl.MP.No.14321 of 2019

1.S.Loganathan

2.Hema @ Hemalatha

.. Petitioners/Accused

Versus

1.The Inspector of Police,
Thiruthuraipoondi Police Station,
Tiruvarur District.

.. 1st respondent / complainant

2.Sathiyarayan

.. 2nd respondent / Defacto complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to the Crime No.562/2018 dated 09.11.2018 on the file of Thiruthuraipoondi Police Station and quash the same.

For Petitioners : Mr.R.Nareshkumar for
M/S. K.M.Subramaniam
For Respondent-1: Mr.A.Gopinath
Government Advocate (crl.side)
For Respondent-2 : M/S.Swami Subramaniam



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ORDER

This Criminal Original petition has been filed to quash the proceedings in FIR in Cr.No.562/2018 on the file of the first respondent police.

2.The petitioners have been arrayed as A1 and A2 in this case and they are husband and wife. The second respondent has given a complaint by alleging that the petitioners were his neighbours and due to that acquaintance, he availed a loan of Rs.3,00,000/- from the petitioners and gave two blank but signed cheques, belonging to his friend one Pugahalenthi drawn at Indian Bank, bearing Numbers 841903 and 841904 respectively, in favour of the second respondent's Indian Overseas Bank as security. He paid Rs.1,40,000/- towards the principal amount and there was balance of Rs.1,60,000/- only. When the second respondent went and gave the balance and sought back the documents, the petitioners demanded excessive amount Rs.3,50,000/- as interest. After having settled the matter at Rs.1,90,000/- the accused did not return the documents and they misused



the same and have filed various litigations basing on the same. On this allegation a case has been registered in FIR in Cr.No.562 fo 2018 for the offences under Sections 406, 420 and 506(i) IPC.

3.Heard the submissions made by the learned counsel on either side and perused the materials available on record.

4.The learned counsel for the petitioners submitted that the cheques have been issued by the second respondent only as security and even the case filed for dishonour of cheques also ended in their favour. The petitioners had exaggerated the money transactions into a criminal offence; hence the proceedings against the petitioners are liable to be quashed.

5.The learned Government Advocate (crl.side) appearing for the first respondent submitted that the cheques issued by the second respondent as security have been misused by the petitioners even after the second respondent had repaid the loan; since the petitioners had criminal intention, the investigation should be allowed to go.



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6.The records would show that the transactions between the petitioners and the second respondent is a money transactions basing upon certain documents. The learned counsel for the petitioners has also submitted that they had initiated action against the second respondent for dishonour of cheque and that was ended in their favour. If by any reason the second respondent thought that the petitioners have collected excessive amount beyond what was due by him, he ought to have taken civil action for recovery of the same along with documents.

7.Since the intention of the parties was to have money transactions between themselves and in which there arose some misunderstanding a criminal complaint has been given. I do not find any criminality on the part of the petitioners and the second respondent is at liberty to contest the suit or any other proceedings initiated in this regard before the appropriate forum. The cheques of the second respondent were not stolen by the petitioners and the second respondent had knowingly issued the cheque after availing the loan.



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With the above observations, this criminal original petition is **disposed** of and the first respondent police is directed to continue the investigation and file the final report as expeditiously as possible.

10.01.2023

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
Neutral: Yes /No

jrs



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R.N.MANJULA, J.,

jrs

To:

- 1.The Inspector of Police,
Thiruthuraipoondi Police Station,
Tiruvarur District.
- 2.The Public Prosecutor(Puducherry).
High Court, Madras.

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