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Crl.O.P.No.34312 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No.34312 of 2019

&

Crl. M.P.No. 18989 of 2019

1.M.R.Kannan

2.K.Vignesh

... Petitioners

Vs.

1.State represented by
The Inspector of Police,
Team – 17, Chit Fund and Kanthuvatti Section,
Central Crime Branch
Commissioner Office,
Vepery,
Chennai – 600 007.

2.Abdul Rafi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in Cr.No.336 of 2017 on the file of the Central Crime Branch Team – XVII, Chit Fund and



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Kanthuvatti Section, Commissioner Office, Vepery, Chennai and quash

the same.

For Petitioners : Mr. R. Varadaraj

For Respondent 1 : Mr. A.Damodaran
Additional Public Prosecutor

For Respondents 2 : Mr. Swami Subramanian.

ORDER

The petition is filed to quash the FIR filed for the alleged offences under Section 4 read with 3 of the Tamil Nadu Prohibition of Charging Exorbitant of Interest Act, 2003.

2. It is alleged in the FIR that the petitioners had given a loan of Rs.38,00,000/- to the defacto complainant and they charged exorbitant interest; that the Power of Attorney executed in favour of the 1st petitioner was misused and a sale agreement was executed by the 1st petitioner in favour of the 2nd petitioner.



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3. The learned counsel for the petitioners however submitted that the 2nd petitioner, at the time of filing a petition, was a 19 year old boy and he has nothing to do with the alleged offences. The documents would clearly show that there is a registered Power of Attorney and sale agreement. The contents of the FIR are contrary to the registered documents. There is a presumption in favour of the registered documents and hence the impugned FIR is an abuse of process of law. Further, the 2nd respondent has not produced any evidence to show that this was a loan transaction and the petitioners have charged exorbitant interest.

4. The learned counsel for the defacto complainant and the learned Additional Public Prosecutor however submitted that the matter has to be investigated to ascertain the truth. The learned Additional Public Prosecutor prayed for 8 weeks time to conclude the investigation in the above case.



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5. This Court on perusal of the impugned FIR and Documents filed by the petitioners finds that there is a registered Power of Attorney executed by the 2nd respondent in favour of the 1st petitioner. It is for the 2nd respondent to establish if there is any loan transaction. It is needless to say that if the 2nd respondent is unable to establish that there was a loan transaction, the respondent Police would not pursue the matter further. However, this Court cannot at this stage scuttle the investigation. The respondent Police shall investigate the case expeditiously and in any event complete it, within a period of 8 weeks, from the date of receipt of a copy of this order.

6. With the above observation, the petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No

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To

1.The Central Crime Branch Team – XVII,
Chit Fund and Kanthuvatti Section,
Commissioner Office, Vepery,
Chennai.



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SUNDER MOHAN. J,

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Crl.O.P.No. 34312 of 2019

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