



Crl.O.P.(MD) No.6323 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2023

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.O.P.(MD) No.6323 of 2019

and

Crl.M.P(MD) Nos.4181 and 4182 of 2019

1.Paramaguru

2. Selvam

3. Murugan

4. Nagu @ Nagalakshmi

5. Lakshmi

6. Panjavarnam

... Petitioners / Accused Nos.1 to 6

Vs.

1.The Inspector of Police,
Palanichettypatti Police Station,
Theni District.
Crime No.670 of 2017.

... 1st Respondent / Complainant

2. Sentrayan

... 2nd Respondent / Defacto
Complainant

PRAYER: This Criminal Original Petition is filed under Sections 482 of Criminal Procedure Code, to call for the records pertaining to the impugned



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charge sheet in C.C.No.127 of 2018 on the file of the learned Judicial Magistrate, Theni, and quash the same as illegal.

For Petitioner : Mr. Shakar Ganesh.R

For Respondent : Mr. Nambiselvan.B
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to call for the records pertaining to the impugned charge sheet in C.C.No.127 of 2018 on the file of the learned Judicial Magistrate, Theni, and quash the same as illegal.

2. The facts in brief:

The defacto complainant has lodged a complaint stating that he borrowed a sum of Rs.3,00,000/- as loan from the accused Nos.1 and 2 and he was paying interest for the above said amount. Because of his family situation, he could not continue to pay the interest and the accused demanding extra interest. On 27.09.2017 at about 7.15 p.m., the accused came to the house of the defacto complainant, abused in filthy language and the second accused assaulted his mother, she was also pushed out of the house, other accused also assaulted him and his father demanding execution of sale deed in respect of house in their favour and intervention of



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neighbours, further assault was prevented. The accused persons have criminally intimidated the defacto complainant's family members by showing knife. Based on the above said occurrence, a case was registered in Crime No.670 of 2017 under Section 147, 448, 294(b), 323, 506(i) of IPC and 3 and 4 of TN Prohibition of Charging Exorbitant Interest Act. After completion of investigation, Final Report was also filed and the same was taken cognizance by the learned Judicial Magistrate, Theni, in C.C.No.127 of 2018.

3. Now seeking quashment of the entire proceedings, this petition has been filed on the ground that only to escape from the liability of the repayment of the loan amount, false complaint has been given. When the second respondent was trying to sell his property, the second petitioner approached him and demanded back money. Apart from that it is also stated that the second petitioner also filed the Suit in O.S.No.347 of 2017 for recovery of money based on the promissory note executed by the second respondent and the same is pending trial.

4. Heard both sides.



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5. No doubt that it is the money transaction between the second respondent and the second petitioner herein. Over which, the second petitioner has filed the suit in O.S.No.347 of 2017 against the second respondent for recovery of Rs.3,00,000/- along with interest on the basis of the promissory note. In the suit, they have claimed only 12% interest. The above said suit was filed in the month of December 2017 but the correct date of the present complaint is not available on records. The subject matter said to have taken place on 27.09.2017, which is much prior to the month of filing of the suit. With regard to the demand of exorbitant interest, no case is made out against this petitioners, since they have claimed only 12% interest instead of the interest mentioned in the promissory note.

6. So far as the other offences namely 147, 448, 294(b), 323 and 506(i) of IPC, no ground can be made to quash the entire proceedings, because the allegation is made to the effect that not only the defacto complainant, but his parents were also assaulted by the accused. No doubt that no medical record and particulars of medical treatment also available in the Final Report. But they have stated that since they did not suffer any severe injuries, they did not take any treatment. Whether it is true and



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reliable is the matter for consideration at that time of trial. Whether this allegation is true or false cannot be considered at this stage and the proceedings cannot be quashed. The suit has been filed by the second respondent for recovery of money only much after lodging of the complaint and filing of the Final Report.

7. Now the said suit has been decreed in favour of the second petitioner, since the defacto complainant remained exparte. As stated above, in the suit and as well as in the decree only 12% interest has been awarded.

8. But however, considering the facts and circumstances of this case, the entire family members are arrayed as accused, except the second petitioner herein, personal appearance of all other petitioners are dispensed before the trial Court.

(i) The petitioners 1, 3 to 6 shall appear before the trial Court namely the Judicial Magistrate Court, Theni, within a period of 15 days from the date of receipt of a copy of this order and file an undertaking affidavit, by affixing their recent passport size photograph, to the effect that they will appear before the trial Court as and when required and must ensure their proper representation through Advocate.



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9. Accordingly, this Criminal Original Petition is dismissed.

Consequently, the connected Miscellaneous Petitions are closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
indu

To

- 1.The Inspector of Police,
Palanichettypatti Police Station,
Theni District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN,J.

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