



Crl.O.P.(MD) No.8960 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2023

CORAM:

THE HONOURABLE **MR. JUSTICE K.K.RAMAKRISHNAN**

Crl.O.P.(MD) No.8960 of 2019

and

Crl.M.P(MD)Nos.5697 and 5698 of 2019

Jeeva Rethinam

... Petitioner

Vs.

1.The State rep. by
The Inspector of Police,
Thirukurungudi Police Station,
Tirunelveli District.
(Crime No.167 of 2013)

2. Thirumalai Nambi

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the entire records pertaining to the case in C.C.No.243 of 2015 pending on the file of the learned Judicial Magistrate, Vallioor, Tirunelveli District and quash the same as against the petitioner.

For Petitioner : Mr.R.Anand

For Respondents : Mr.M.Muthumanikkam,
Government Advocate(Crl.Side)
for R1

: Mr.V.Sasi Kumar for R2



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ORDER

The petitioner has filed this Criminal Original Petition under Section 482 Cr.P.C., to quash the charge sheet filed in C.C.No.243 of 2015, on the file of the learned Judicial Magistrate, Vallioor, Tirunelveli District.

2. The petitioner herein is said to have committed the offences under Sections 294(b), 506(i) of IPC and Section 3 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act.

3. The second respondent has borrowed a sum of Rs.70,000/- from the petitioner with an undertaking to repay the same with an interest of 5%. for which, he executed a sale agreement as a security and also he entrusted the original title deeds of the property with the petitioner. After the repayment of an entire amount, the petitioner refused to return the original title deed documents. The same was enquired with the second respondent and the petitioner demanded further amount of Rs.50,000/- as interest and also criminally intimidated him. Therefore, the respondent police registered the case for the above said offences. The investigating agency completed the investigation and filed a final report before the



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learned Judicial Magistrate Valliyoor and the same was taken on file in C.C.No.243 of 2015.

4. The petitioner filed this petition to quash the proceedings in C.C.No.243 of 2015, learned Judicial Magistrate, Valliyoor, and the learned counsel for the petitioner made the following submissions:

5. The second respondent agreed to sell his property to the petitioner and executed the sale agreement and failed to adhere to the terms of the agreement and execute the sale deed. Therefore, he filed a suit in O.S.No.19 of 2013 on the file of the Sub Court Valliyoor and the similar defence was taken before the said Court and the suit was decreed and as against the same, Appeal Suit in A.S.No.75 of 2015 is filed on the file of the Principal District Court, Tirunelveli and the same was allowed and the petitioner's suit was dismissed. Aggrieved over the same, the petitioner has filed the second Appeal before this Court. The second respondent suppressing the above material preferred the complaint and the same was erroneously registered and investigated by the first respondent police. Therefore, he seeks for the quashment of C.C.No.243 of 2015.



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6. The learned counsel for the respondent submitted that the first appellate Court gave a finding that the same was executed for the loan transaction and hence, the criminal case is not liable to be quashed. He also stated that already the petitioner received an exorbitant interest and demanded further exorbitant interest and filed the suit. Therefore, filing of suit is not a ground to quash the proceedings.

7. The learned Additional Public Prosecutor also reiterated the said submissions and also stated that there is no bar to initiate both the civil and criminal proceedings. The petitioner committed offence under the Exorbitant interest Act. The same was investigated by the investigating agency in a fair manner and the sufficient material was available.

8. This Court considered the rival submissions and perused the materials available on record.

9. Both parties admitted the filing of the specific performance suit to enforce the sale agreement entered by the petitioner as against the second respondent in O.S.No.19 of 2013. In the said suit, the second



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respondent took a plea that the same was executed as a security. The trial Court had not accepted the same and decreed the suit. The second respondent filed the appeal suit in A.S.No.75 of 2015 and the same was allowed. Aggrieved over the same, the petitioner has preferred the second appeal before this Court. In the said circumstances, whether it is executed as a security to obtain the loan amount from the petitioner is the subject matter of the second appeal and hence, the initiation of the criminal proceedings with the allegation that the petitioner demanded exorbitant interest and criminally intimidated the second respondent does not constitute any offence. The second respondent, in the considered opinion of this Court has given criminal profile to the civil dispute and hence, this Court is inclined to quash the proceedings.

10. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

01.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
sbm



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To
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1. The Judicial Magistrate,
Vallioor, Tirunelveli District.
2. The Inspector of Police,
Thirukurungudi Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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