



Crl.O.P.(MD)No.15869 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2023

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THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.15869 of 2020

and

Crl.M.P.(MD)No.7788 of 2020

Bhuvanesh

... Petitioner

Vs.

1.The State Represented by
The Inspector of Police,
Avaniyapuram Police Station,
Madurai City, Madurai.
(Crime No.2072 of 2020)

2.Rajaguru

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the FIR in Crime No.2072 of 2020 on the file of the first respondent and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.B.Prahalad Ravi



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For R1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. Side)

For R2 : Mr.T.Palani Samy

ORDER

This Criminal Original Petition has been filed to quash FIR in Crime No.2072 of 2020 on the file of the first respondent as against the petitioner.

2.According to the petitioner, based on the complaint given by the second respondent, the first respondent registered FIR in Cr.No.2072 of 2020 for the offence under Section 420 IPC. As per the case of the prosecution, the petitioner along with other accused had borrowed a sum of Rs.97 Lakhs from him. On 16.04.2020, he paid Rs.20 Lakhs to the petitioner and other accused in their house and remaining Rs. 77 Lakhs was given on different days. Since they had not repaid the said amount, the defacto complainant asked about the same, at that time, they promised him to repay the said amount on 10.08.2020 and executed deed for acknowledgment of the said loan, apart from that they handed over



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three unfilled cheques of City Union Bank, in the presence of one Murugavel and one Baskaran. Even thereafter, the accused had not repaid the loan. Hence, the defacto complainant preferred the complaint. According to the petitioner, the above said prosecution is pure civil in nature and already three cheques were given, as per the complaint. If so, the defacto complainant can take appropriate action based on the above said three cheques. But, in order to give criminal colour, present FIR came to be registered and the same is clear abuse of process of law. Therefore, pending FIR is liable to be quashed.

3.No counter was filed by the respondents.

4.The learned counsel appearing for the petitioner would contend that based on the complaint given by the second respondent, the first respondent registered FIR in Cr.No.2072 of 2020 for the offence under Section 420 IPC. Even according to FIR, it is money dispute and already three cheques were already given by the accused and therefore, the defacto complainant can very well file a cheque case, but instead of the same, the second respondent filed this complaint and the same is abuse of



process of law. Therefore, he prayed to quash the impugned FIR.

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5.The learned counsel appearing for the second respondent would contend that the petitioner and other accused borrowed a sum of Rs.97 Lakhs and they promised to repay the same, but they have not repaid the same. In order to acknowledge the above said amount, they executed deed and issued three unfilled cheques for the above said amount. In spite of repeated demand, they failed to repay the amount and thereby, the complaint was given. At this stage, this petition is liable to be dismissed.

6.The learned Government Advocate(Crl.side) appearing for the first respondent police would contend that based on the complaint given by the second respondent, the first respondent registered FIR in Cr.No. 2072 of 2020 for the offence under Section 420 IPC. After registering FIR, the first respondent transferred the case to the Central Crime Branch and now, the case is under investigation. Therefore, at this stage, the petition is liable to be dismissed.



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7.Heard both sides and perused the materials available in the records.

8.It is admitted fact that there is money dispute pending between the parties. According to the petitioner, there was money transaction between the parties and the accused persons issued three cheques as security and the prosecution case is pure civil in nature. According to the defacto complainant, the petitioner and other accused obtained money and thereafter, cheated the defacto complainant.

9.Now, the case is at preliminary stage and it is for the investigating officer to investigating the case in appropriate manner as to whether any criminal offences are made out or not. The defacto complainant himself admitted that the petitioner and other accused issued three unfilled cheques and acknowledgement deed was also issued. It is for the investigating officer to investigating the matter in a fair manner. At this stage, this Court cannot form any opinion with regard to the said acknowledgement and other documents. Since the case is now under initial stage, this Court is declined to quash the impugned FIR, at this stage. The investigating officer is directed to complete the investigation



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within a period of two months from the date of receipt of a copy of this order.

P. DHANABAL,J.

gns

10.With the above directions and observations, this criminal original petition is disposed of. Consequently connected miscellaneous petition is closed.

22.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
gns

To

- 1.The Inspector of Police,
Avaniyapuram Police Station,
Madurai City, Madurai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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