



Crl.O.P(MD).No.16152 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.16152 of 2019

and

Crl.M.P.(MD)Nos.9609 and 9611 of 2019

1.E.Nandhakumar

2.P.Lakshmanan

3.R.Prabhu

4.C.Kamalanathan

...Petitioners/Accused Nos.1 to 4

Vs

1.The State by

The Inspector of Police,
Sholavandan Police Station,
Madurai District.

2.Mani Muthaiyah

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records pertaining to the proceedings in C.C.No.42 of 2019 pending on the file of the learned Judicial Magistrate, Vadipatti and quash the same.

For Petitioners

: Mr.R.Rajaraman

For 1st Respondent

: Mr.R.M.Anbunithi

Additional Public Prosecutor

For 2nd Respondent

: Mr.M.Solaisamy



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ORDER

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This criminal original petition has been filed to quash the proceedings in C.C.No.42 of 2019 pending on the file of the learned Judicial Magistrate, Vadipatti.

2. According to the petitioners, the second respondent herein has borrowed money from the various persons and four C.C. Cases are pending under Section 138 of the Negotiable Instruments Act before the learned Judicial Magistrate, Uthankarai. While so, the defacto complainant lodged a complaint before the first respondent police on 11.09.2016 alleging that on the said date, at about 04.00 pm., when the defacto complainant was in his agricultural land, the petitioners came to his land and demanded a sum of Rs. 10,00,000/- and abused him in unparliamentary words and also attempted to assault him. Based on the complaint, the first respondent registered FIR in Cr.No.328 of 2016 for the offence punishable under Sections 294(b), 323 and 506(ii) IPC and the same was altered into Sections 294(b), 352 & 506(ii) IPC. After completion of investigation, the first respondent police filed the charge sheet before the learned Judicial Magistrate, Vadipatti in C.C.No.42 of 2019. After receipt of summons from the criminal cases filed against the second respondent, he lodged the present false complaint. Further, the second respondent threatened the petitioner, if they failed to withdraw the



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proceedings initiated under Section 138 of the Negotiable Instruments Act, he will take steps with the help of the Police to proceed with the complaint.

Since the petitioners were not withdrew the proceedings under Section 138 NI Act, the second respondent has proceeded with this false case. That apart, there is a delay of 7 days and the same was not explained. In view of the pendency of this false case, the liberty of the petitioners is in peril and they may not be compelled to undergo the ordeal of trial on the false case. Hence, the petitioners filed the present petition.

3.The learned counsel appearing for the second respondent has admitted the pending cheque cases and he has further argued that the petitioners abused the second respondent in filthy language and assaulted him and that committed criminal intimidation and thereby, he lodged complaint and the first respondent police also registered FIR. Hence, there was no scope for filing this petition.

4.The learned Additional Public Prosecutor appearing for the first respondent has also admitted that on 15.04.2019 itself charge sheet was filed and due to stay order granted by this Court, further proceeding were stopped. As per the records, prima facie case made out and thereby, final report has been filed before the concerned Court, after examining all the witnesses and



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investigating the matter elaborately. Therefore, there is no ground to allow this petition.

5.Considering the submissions made by the learned counsels and also considering the fact that already final report filed and also the fact that criminal cheque cases are pending between the parties, it is appropriate to allow the proceedings for above trial and all the grounds raised by the petitioners have to be agitated before the trial Court.

6.Admittedly, no charges were framed before the Lower Court for trial and the petitioners are at liberty to approach the trial Court through discharge application if they have *prima facie* grounds. Therefore, the petitioners can very well avail that opportunity, instead of approaching this Court for quashing CC. proceedings. After finding prima facie materials only, the first respondent filed the final report and it is for the trial Court to decide whether any charges made out or not. Hence, it is for the petitioners to approach the trial Court for filing appropriate application for appropriate remedy in accordance with law.

7.At this juncture, the learned counsel appearing for the petitioners argued that if this Court is not inclined to allow this petition, the personal



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appearance of the petitioners before the trial Court may be dispensed with.

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8.As far as dispensing the personal appearance of the petitioners before the trial Court is concerned, it can only be decided by the trial Court on application filed by the petitioners. On such application, the trial Court is directed to consider the same in accordance with law.

9.In view of the above discussion, there is no merits in this petition and it is deserved to be dismissed. Accordingly, this criminal original petition is dismissed. The learned Judicial Magistrate, Vadipatti, is directed to dispose of the case in C.C.No.42 of 2019, without granting long adjournment, as early as possible, preferably, within a period of three months from the date of receipt of a copy of this order. The parties are directed to co-operate with the trial Court for early disposal of the case. Consequently connected miscellaneous petitions are closed.

04.07.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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P. DHANABAL,J.

Gns

To

- 1.The Judicial Magistrate, Vadipatti.
- 2.The Inspector of Police,
Sholavandan Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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