



CrI.O.P.(MD)No.20521 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.07.2023**

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.(MD)No.20521 of 2021

and

CrI.M.P(MD).Nos.11693 of 2021 and 7411 of 2022

Arunkumar

... Petitioner

Vs.

1.The State rep. by
The Inspector of Police,
Cumbum South Police Station,
Theni District.

2.Krishna Priya

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to impugned FIR in Crime No.553 of 2021 on the file of the first respondent police and quash the same.

For Petitioner	: Mr.Mr.G.Prabhu Rajadurai
For R1	: Mr.Mr.Meenakshi Sundaram Additional Public Prosecutor
For R2	: Mr.S.Sundarapandian



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ORDER

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This petition has been filed to call for the records pertaining to impugned FIR in Crime No.553 of 2021 on the file of the first respondent police and quash the same.

2. The case of the prosecution as per the second respondent/defacto complainant is that the petitioner was introduced by her husband as an advocate. The petitioner borrowed amount from the defacto complainant on several occasion to the tune of Rs.40,00,000/- (Rupees Forty Lakhs only) for his business purpose. During the year 2018, the defacto complainant arranged his daughter's marriage and also demanded the money from the petitioner. At that time, the petitioner threatened the defacto complainant and also refused to repay the amount. Hence, the defacto complainant gave a complaint with the Additional Superintendent of Police, Uthamapalayam and the petitioner has failed to appear before him and the Superintendent of Police has forwarded the complaint to the first respondent. Thereafter, the first respondent registered the complaint immediately.



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3. The learned counsel for the petitioner submitted that the petitioner is the one of the leading lower in Uthamapalaym and the second respondent/defacto complainant forced the petitioner to marry her daughter. Apart from that the petitioner and the defacto complainant are not known to each other. He further submitted that on the earlier occasion, based upon the complaint given by the defacto complainant enquiry was undertaken by the Additional Superintendent of Police and the same was closed and suppressing the same, the present complaint has been given and also FIR was registered against the petitioner. Further, the admitted case of the defacto complainant is that money have been paid from her residence, which comes under the another jurisdiction and not in the jurisdiction of the first respondent. He further submitted that the present complaint has been given to take vengeance upon the petitioner, since he refused to marry her daughter. He further submitted that the defacto complainant's daughter married another person and the petitioner married another lady. Hence, he prays to quash the FIR.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that on the basis of the complaint received



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from the Superintendent of Police, the first respondent police registered the complaint in Crime No.553 of 2021 for the offences under Sections 294(b), 420 and 506(ii) of IPC against the petitioner. After registration of the FIR, the petitioner approached this Court by way of anticipatory bail and after hearing the elaborate arguments of the petitioner and the defacto complainant and the learned Additional Public Prosecutor, this Court found that the petitioner's contentions not sustainable and without any relevant documents, he filed the anticipatory bail petition and this Court passed the elaborate dismissal order. Thereafter, the petitioner immediately, the petitioner filed this petition seeking quashment of FIR and this Court has granted interim stay. Therefore, the further investigation was stalled.

5. The learned counsel for the second respondent/defacto complainant submitted that the petitioner admits that he had a money transaction with the defacto complainant/second respondent. He further submitted that without any supporting documents, the petitioner has made contention only, while hearing the anticipatory bail petition and the same was dismissed by this Court. After dismissing the anticipatory bail



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petition, the petitioner has not taken any steps to arrest the petitioner.

Thereafter, the petitioner has filed this petition and this Court has granted interim stay and therefore, the further investigation was stalled. He further submitted that the second respondent's husband working at CRPF and the petitioner not only cheated the defacto complainant, he has also cheated some other persons, for which, one of the person gave a complaint before the Bar Council of Tamil Nadu & Puducherry. He further submitted that in the year 2018, the petitioner received the money from the defacto complainant and without repaying the same, he enjoying the money.

6. Heard both sides and perused the materials available on record.

7. A perusal of records shows that the petitioner and the defacto complainant are known to each other and the petitioner received money from the defacto complainant for the purpose of developing his business. Thereafter, he has not repaid the same and thereafter, dispute arose between them. The petitioner has paid a sum of Rs.22,00,000/- (Rupees Twenty Two lakhs only) to the defacto complainant. The petitioner is



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doing the real estate business and apart from that he is the practicing advocate at Uthamapalayam Court and the petitioner and the defacto complainant are having continuos money transaction between them. Complaint and the counter complaint have been given by the both parties.

8. The petitioner and the defacto complainant has not produced any related documents before this Court to prove their case. The parties have made allegation and counter allegation against to each other. Whether due to non repayment of money or otherwise, the dispute has been arose between the parties is a matter for investigation.

9. Considering the fact that the FIR is pending from the year 2021, due to the various proceedings are pending before this Court. This Court is not inclined to allow this Criminal Original Petition. Accordingly, this Criminal Original Petition is dismissed. It is seen that no custodial interrogation of the petitioner is not necessary in this case and for the purpose of investigation, the respondent police shall issue notice under Section 41(A) of Criminal Procedure Code. During the course of



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investigation, the petitioner shall produce the relevant documents before the respondent police and the respondent police shall receive the same and considered the same. Since the investigation is pending from the year 2021, the respondent police is directed to complete the investigation and file a final report within a period of three months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed.

14.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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



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M.NIRMAL KUMAR, J

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