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Crl.O.P.No.530 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.530 of 2023
& Crl.M.P.No.241 of 2023

1. Damodar Hariram.
2. Amit Damodar.
3. Vinay Asrani.
4. Ramesh L Asrani.

... Petitioners/Accused 1 – 4

/versus/

1. The Assistant Commissioner of Police,
Chit & Kandhuvatti FPP Team,
Central Crime Branch, Vepery,
Chennai – 600 007.
(Crime No.258 of 2022)

... Respondent/Complainant

- 2.Arumugam.

... Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records on the file of the 1st respondent police in Crime No.258 of 2022 and quash the same.

For Petitioner	: Mr.Ganesh and Ganesh
For R1	: Mr.K.M.D.Muhilan, Government Advocate (Crl.Side).
For R2	: Mr.R.Vivekananthan



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ORDER

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This petition is filed to quash the Crime No.258 of 2022 on the file of the 1st respondent police on the ground that it is purely a civil dispute arising out of a mortgage deed and money transaction which has been given a criminal colour and therefore, same has to be quashed.

2. The Learned Counsel appearing for the petitioner also rely upon the judgment of this Court in *Sri Kalpatharu Financiers by its Partner Mr.K.Selvaraj -vs- V.Natarajan* reported in *CDJ 2012 MHC 2307* would submit that when money transaction is based on the promissory note and mortgage deed, offence under Exorbitant Interest Act will not get attracted.

3. The Learned Counsel for the defacto complainant submits that an exorbitant interest of 1 rupee 70 piece per hundred per month for loan of Rs.60 lakhs was availed on mortgage for which exorbitant interest of Rs.16,87,010/- was paid towards interest, despite payment of interest, additional interest was demanded exorbitantly. When the complainant questioned, he was threatened and



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abused and therefore, the police has registered the case under Section 406 and 420 of I.P.C and Section 3 & 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act. It is not the pure case of money transaction but extortion of exorbitant interest for the loan advanced and consequential threat to life.

4. Considering the rival submission, the averment made in the complaint and also pendency of the civil suit arising out of mortgage deed, this Court is of the view that the police has to probe into the matter in accordance with law and decide whether it is pure civil dispute or an attempt to grab the land under the guise of mortgage deed.

5. Hence, this Criminal Original Petition is dismissed with direction to the respondent police to complete the investigation within a period of 45 days, from the date of receipt of copy of this order. Consequently, connected Miscellaneous Petition is closed.

06.08.2024

Index : Yes/No.
Neutral Citation : Yes/No.



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To

1. The Assistant Commissioner of Police,
Chit & Kandhuvatti FPP Team,
Central Crime Branch, Vepery,
Chennai – 600 007.
2. The Public Prosecutor, High Court, Madras.



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Dr.G.JAYACHANDRAN,J.

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