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CrI.O.P.No.7713 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

CrI.O.P.No.7713 of 2024
and CrI.M.P.Nos.5619 & 5620 of 2024

1.Kamal @ Kamalraj
2.Kavitha
3.C.N.Chitradevi

... Petitioners

Vs.

1.The State Rep.by
The Inspector of Police,
District Crime Branch P.S.,
Thiruvannamalai & District.
Crime No.12 of 2019

2.Jayaraman

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records in C.C.No.19 of 2024 pending on the file of the Judicial Magistrate No.I, Thiruvannamalai & District quash the charge sheet.

For Petitioners : Mr.R.Balakrishnan

For R1 : Mr.K.M.D.Muhilan
Government Advocate (CrI.Side)

ORDER



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The Criminal Original Petition herein to quash the C.C.No.19 of 2024, on the file of the Judicial Magistrate No.I, Thiruvannamalai is filed by Accused 1, 2 and 4.

2. The learned counsel appearing for the petitioners submits that these petitioners are borrowers of loan, had hypothicated their agricultural products. Since there is a shortage of paddy in the godown during inspection, they are arrayed as accused in this case along with godown Manager and others for offence under Sections 406, 420 & 120B IPC. He further submits that for non payment of loan, already recovery proceedings been initiated by the DRT and cheque dishonour case been registered. While so, there cannot be a criminal prosecution.

3. The learned Government Advocate (Crl.Side) appearing for the respondent police submits that it is a case of cheating and breach of trust pursuant to the conspiracy entered between the accused persons, who are borrowers, custodian of the goods hypothicated and the employees of the National Collateral Management Service Limited. The recovery of money suit initiated before the DRT will not prohibit criminal prosecution launched for breach of trust and cheating.



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4. This Court, after perusing Section 161 Cr.P.C., statement and other materials, is of the view that it is a matter for trial and all the points raised by the petitioners herein have to be agitated before the trial Court. Hence *the Criminal Original Petition to quash is dismissed* with direction to the Court concerned to complete the trial as expeditiously as possible preferably within a period of nine months from the date of receipt of a copy of this order. If any petition is filed by the accused to dispensed with their personal appearance, the trial Court shall consider in accordance with law and appropriate order be passed. The personal appearance may be insisted only in the case of necessity for identification or questioning or Judgement or any other purpose. Consequently, the connected Criminal Miscellaneous Petitions are also dismissed.

10.04.2024

Index : Yes/No

Neutral Citation : Yes/No

rpl

Dr.G.JAYACHANDRAN,J.

rpl

To



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1.The Judicial Magistrate No.I, Thiruvannamalai & District.

2.The Inspector of Police,
District Crime Branch P.S.,
Thiruvannamalai & District.

3.The Public Prosecutor,
High Court of Madras,
Chennai.

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