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CRL O.P. No.19734 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :21.08.2024

CORAM

The Hon'ble Mr.Justice P.DHANABAL

CRL OP.No.19734 of 2022

and

CrI.M.P.No.12985 of 2022

1. N.Aneesur Rahman
2. Farhanaaz Khateb
3. Khaleelur Rahman Faaz Naskak ... Petitioner/Accused A1 to R3

Vs

1. The State rep., by
The Inspector of Police,
Ambur Town Police Station,
Thirupathur District.
(Cr.No.156 of 2022)

2. H.Abdul Rashid ...Respondents

PETITION FOR BAIL Under Sec.482 of Cr.P.C

PRAYER: - The Criminal Original Petition is filed under Section 482 of
The Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the



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records and quash the criminal proceedings against the petitioners/
Accused A1 to A3 in Crime No.156 of 2022 dated 15.06.2022 on the file
of the first respondent police.

For Petitioner : M/s.C.S.Saravanan

For Respondents : Mr. S.Vinoth Kumar
Government Advocate (Crl. Side) for R1
: No Appearance for R2

ORDER

This Criminal Original Petitions is filed by the petitioners seeking
quashment of the criminal proceedings in Crime No.156 of 2022 dated
15.06.2022 on the file of the first respondent police.

2. Based on the complaint given by the second respondent/
Defacto complainant, the first respondent police has registered a case
against the petitioners for the alleged offences punishable under Sections
294(b), 323, 363, 420, 465, 506(i) of IPC for the alleged occurrence
which took place on 22.05.2018 for which First Information Report was
registered on 15.06.2022 and the same was pending on the file of the
Judicial Magistrate, Ambur.



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3. The case of the prosecution is that on 22.05.2018, the accused have borrowed a sum of Rs.26,18,000/- as business loan from the complainant for his trading business by supplying finished leathers to Habeeb Tanning Company, Gudiyattam and they have entered into an agreement by way of Memorandum of Understanding, but later accused failed to act as per the agreement and failed to return the borrowed amount. After several demands made by the defacto complainant, the accused have issued a post dated cheque dated 21.12.2021 bearing No."01089250" drawn on Tamilnadu Mechantile Bank Ambur Branch in favour of the complaint for Rs.14,00,000/- and assured to settle balance amount within three months. When the Defacto complainant presented the said cheque before the bank, the same was returned on 05.01.2022 as "funds insufficient". Hence, a legal notice was sent to the accused on 22.01.2022 and the same was received by the accused on 24.01.2022, but not replied to the said legal notice. While being so, on 15.08.2021, the defacto complainant went to the house of the petitioner and asked the first petitioner to repay the amount, at that time, the first petitioner assaulted him on his face, the second petitioner pushed down him and the third petitioner abused and threatened him, therefore the defacto



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complainant has lodged a complaint and an FIR was registered in Crime No.156 of 2022 under Sections 294(b), 323, 363, 420, 465, 506(i) of IPC.

4. Learned counsel for the petitioners would submit that since there was a money dispute between the first petitioner and the defacto complainant, a civil dispute has been converted into criminal colour and a false complaint has been lodged by the defacto complainant. It is further submitted that even according to the FIR, there is no offences made out as against the second and third petitioner, therefore, the pending FIR is abuse process of law and the same is liable to be quashed.

5. Learned Government Advocate (Criminal Side) would contend that based on the complaint given by the defacto complainant, the first respondent police have registered a case in Crime No.156 of 2022 for the offences punishable under Sections Sections 294(b), 323, 363, 420, 465, 506(i) of IPC. The case is under investigation stage and there are ingredients to constitute the offences leveled against the petitioners, therefore, the matter has to be investigated elaborately and prays to



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dismiss this Criminal Original Petition.

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6. Heard the submissions made by both sides and perused the records.

7. On a careful perusal of an F.I.R, this Court finds that there is a money dispute pending between the parties and a cheque case is also filed and the same is also pending. Insofar as the specific over tact attributed against the second and third petitioners are concerned, as per contents of the FIR, there is no ingredient to constitute the offences under Sections 294(b), 323, 363, 420, 465, 506(i) of IPC. There are vague and ominous allegations alleged against the second and third petitioners and there is no specific allegations leveled against them to constitute the offences, therefore, filing of FIR against the second and third petitioners is clear abuse of process of law. Hence, this Court is inclined to quash the FIR as against the second and third petitioners. As far as the first petitioner is concerned, there are some materials available as per FIR, therefore, the matter has to be investigated as against the first petitioner.



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8. In the result, this Criminal Original Petition is partly allowed. As far the second and third petitioners are concerned, the FIR in Crime No.156 of 2022 on the file of the first respondent police is quashed. As far as the first petitioner is concerned, the petition is dismissed. Consequently, connected miscellaneous petition is closed.

22.08.2024

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index: Yes/No
Speaking/Non Speaking order

To

1. The Inspector of Police,
Ambur Town Police Station,
Thirupathur District.
2. The Government Advocate (Criminal Side),
High Court, Madras.



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P.DHANABAL,J,

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