



Crl.O.P No.20442 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.20442 of 2023
and Crl.MP.Nos.13895, 13898 and 18878 of 2023

1.K.Ravichandran

2.R.Shanthi

3.Vivek alias Vivekanandhan

... Petitioner/Accused 5,6 and 7

.VS.

A.D.Baskar

..2nd Respondent/De facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash in C.C.No.5 of 2022, pending on the file of the Judicial Magistrate-I, Tiruvannamalai.

For Petitioner : Mr.D.Babu Varadharajan

For Respondent : Mr.T.Mohan
Senior Counsel
for Mr.N.Umapathi



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ORDER

This petition has been filed challenging the proceedings in C.C.No.5 of 2022, pending on the file of the Judicial Magistrate-I, Tiruvannamalai.

2.Heard Mr.D.Babu Varadharajan, learned counsel for the petitioners and Mr.T.Mohan, learned Senior Counsel for the respondent.

3.The respondent has filed a private complaint before the Court below on the ground that on 2.10.2018, the accused persons had approached him and had asked for loan amount of rupees one crore in order to settle an immediate liability and to redeem the properties belonging to A7. Believing the words of all the accused persons, the respondent gave loan of a sum of Rs.1/-Crore and it was promised that this amount will be returned back within one month after the property belonging to A7 is redeemed.

4.The further case of the complainant is that there was a delay in repayment of the loan amount and the complainant was repeatedly asking the accused persons to settle the amount. They were giving some evasive answers. Ultimately, it was promised that the entire amount will be repaid back after the marriage in the family on 3.12.2020. Even thereafter, the amount was not repaid back.



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5.The complainant gave a complaint before the police on the ground that he had been cheated and that when he asked for the repayment of the amount, he was also threatened. The parties were called for an enquiry. The cheques are said to have been issued in favour of the complainant by A7. When it was deposited, it was dishonored with an endorsement "refer to drawer". The complainant once again got in touch with the accused persons and questioned them. The accused persons are said to have abused in filthy language and have also threatened the complainant. Since the efforts taken by the respondent to initiate criminal action before the police did not fructify, the private complaint was filed before the Court below against the accused persons for offence under Sections 120(b), 420, 294(b) and 506(i) IPC.

6.A1 to A4 had earlier filed a quash petition before this Court in Crl.OP.No.6086 of 2022. This Court went into the entire allegations and found that no offence has been made out as against A1 to A4 and accordingly, the proceedings were quashed insofar those accused persons are concerned by order dated 13.9.2022. This Court also directed the case to be proceeded further as against the other accused persons. Thus, the petitioners who are ranked as A5 to A7 are facing the proceedings before the Court below. They have filed the present quash petition before this Court.

7.On carefully going through the complaint, it is seen that whatever



allegations have been made against A1 to A4 has also been made against A5 and

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A6. These two accused persons are the parents of A7. This Court found in the earlier quash petition that no offence has been made out as against A1 to A4. The same reasoning will apply even insofar A5 and A6 are concerned. Hence, the earlier order passed by this Court in Crl.OP.No.6086 of 2022, dated 13.9.2022, will enure in favour of A5 and A6. This is more so since the order passed by this Court has become final.

8.Insofar as the 3rd petitioner (A7) is concerned, there are specific allegations made in the private complaint which *prima facie* constitutes offence of cheating. Hence, the 3rd petitioner (A7) has to necessarily face the proceedings before the Court below. This Court does not want to specifically deal with the allegations made against the 3rd petitioner (A7) since it will have a bearing and it will prejudice the interest of A7. Therefore, all those issues are left open to be contested before the Court below.

9.In the result, the proceedings in C.C.No.5 of 2022, pending on the file of the Judicial Magistrate-I, Tiruvannamalai, is quashed insofar as the 1st and 2nd petitioners (A5 and A6) are concerned. The proceedings will go on as against the 3rd petitioner (A7). It is left open to the parties to raise all the grounds before the Court below and the same will be considered on its own merits and in accordance with



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law. The Court below shall complete the proceedings in C.C.No.5 of 2022, pending on the file of the Judicial Magistrate-I, Tiruvannamalai, within a period of **three months** from the date of receipt of copy of the order.

10In the result, this criminal original petition is partly allowed with the above directions. Consequently, connected miscellaneous petitions are closed.

08.02.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
KP

To

Judicial Magistrate-I, Tiruvannamalai.



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N. ANAND VENKATESH., J

KP

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