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A. No.1872 of 2024
and
C.S. (COMM. DIV.) No.79 of 2024
and
A. Nos.3379 and 3381 of 2024

ABDUL QUDDHOSE, J.

A. No.3379 of 2024 has been filed by the defendants to initiate proceedings against the plaintiff under Section 340 C.R.P.C. read with 195 (1) (b) of CRPC on the ground that the Document No.3 filed along with the plaint is a forged document filed by the plaintiff.

2. The applicants / defendants claim that the signature found in Document No.3 viz., the Promissory Note, dated 05.05.2020 is not the signature of the 2nd defendant. The applicant also claims that they have obtained a forensic lab report which reveals that Document No.3, dated 05.05.2020 is a forged document.

3. A counter affidavit has been filed by the respondent / plaintiff in this application denying the contentions of the applicants/ defendants. They have categorically denied the allegations made by the applicants that Document No.3 filed along with the plaint is a forged document. The respondent / plaintiff has also stated that all the documents filed along with the plaint were infact executed only by the defendants and further they have stated that criminal action cannot be taken against the

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plaintiff based on a self serving forensic report obtained by the defendants. The respondent / plaintiff has also stated that only to drag on the proceedings, the present application has been filed.

4. As seen from the written statement as well as from the application, it is clear that there was a contractual relationship between the defendants and the plaintiff and the 1st defendant had also borrowed money from the plaintiff. The plaintiff has filed the suit for the recovery of the alleged outstanding sum, which is alleged to be due and payable by the defendants in respect of the loan transaction. The respondent / plaintiff has categorically denied that Document No.3 filed along with the plaint is a forged document. The trial is yet to commence. The present application has been filed by the defendants after the defendants have filed their written statement and the issues were also framed by this Court. The question as to whether Document No.3 filed along with the plaint by the respondent / plaintiff is a forged document or not, cannot be adjudicated in this interlocutory application that too when there was a contractual relationship between the plaintiff and the defendants, through which, certain sums were borrowed by the defendants from the plaintiff and certain payments were also made.

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5. The defendants rely upon a forensic report obtained from them for the purpose of establishing their case that Document No.3 filed along with the plaint is a forged document. Admittedly, prior to obtaining the said forensic report by the defendants, the defendants have not put the plaintiff on notice about the same that they are going to seek a forensic report with regard to the genuineness of Document No.3 filed along with the plaint. Whether the said forensic report obtained by the plaintiff is a genuine document or not and whether the contents of the said forensic report is true or not cannot be decided in this interlocutory application and can be decided by this Court only after trial i.e., after both the parties are allowed to let in oral and documentary evidence and they are allowed to cross examine the respective witnesses on both sides.

6. For the foregoing reasons, this Court does not find any merit in this application. Accordingly, A. No.3379 of 2024 is dismissed.

7. In view of the order passed in A. No.3379 of 2024, A. No.3381 of 2024, which has been filed seeking leave of this Court to file Additional Written Statement by the defendants is closed.

8. The learned counsel for the respondents / defendants on instructions also submits that the defendants shall not alienate / further encumber the property which is the subject matter of A. No.1872 of

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2024. The said undertaking given by the respondents / defendants is recorded. In terms of the said undertaking, A. No.1872 of 2024 is also closed.

9. Post the matter for Case Management Hearing on 20.11.2024.

06.11.2024

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