



Crl.O.P.No.27614 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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**DATED : 07.11.2024**

**CORAM**

**THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI**

Crl.O.P.No.27614 of 2022

and

Crl.M.P.No.16975 of 2022

1.B.Yoganandam

2.B.Sugumar

3.N.Mohan

4.S.Viji

... Petitioners

**Vs.**

State Rep. by  
The Inspector of Police,  
V-6, Kolathur Police Station,  
Chennai.

Crime No.256 of 2022

... Respondent

**Prayer:** Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to the FIR in Crime No.256/2022 on the file of the respondent police and quash the same.

|                 |                                                       |
|-----------------|-------------------------------------------------------|
| For Petitioners | : Mr.S.Vijay                                          |
| For R1          | : Mr.S.Vinoth Kumar<br>Government Advocate (Crl.Side) |
| For R2          | : Mr.V.T.Narendiran                                   |

**ORDER**

This petition has been filed to quash the FIR in Crime No. 256 of 2022 on the file of the respondent police for the alleged offences punishable

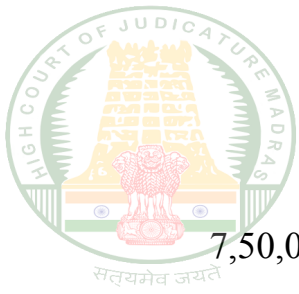


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under Sections 294(b) and 506(ii) of IPC, read with Section 120(b), against the petitioners, based on a complaint by the respondent, Yamini.

2. The learned counsel for the petitioners submitted that the de facto complainant, Yamini, resides opposite the petitioners' residence and conducts financial business in and around the Villivakkam area. From 2013 to 2018, the 4th petitioner, who is a friend of the de facto complainant, needed money, and petitioners 2 and 4 received a loan from Yamini, regularly paying the interest. On 04.01.2022, petitioners 2 and 4 settled the loan through bank transfer. The 3rd petitioner had received a sum of Rs.95,000 for her daughter's marriage in 2015, and although she repaid part of the loan, a balance of Rs.50,000 remains. The 1st petitioner never received any amount from Yamini; he was merely a guarantor.

3. During the COVID-19 pandemic, the defacto complainant demanded a high rate of interest and filed a false complaint, claiming Rs. 10 lakhs from the petitioners. That complaint was closed as a civil dispute. Subsequently, another private complaint was lodged before the Magistrate, which was forwarded for enquiry, with an undertaking to settle a sum of Rs.



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7,50,000. The petitioners allege they were held under illegal custody by the defacto complainant until 11:00 p.m. and threatened, with the complainant claiming they owed more than Rs. 11 lakhs. In fact, the defacto complainant had received interest on the loan for several years, and as an unlicensed money lender, she has made a false complaint. The petitioners thus request the court to quash the proceedings.

4. The learned Government Advocate (Crl. Side) submitted that based on the complaint given by the defacto complainant, an FIR was lodged against the petitioners. According to the petitioners, the defacto complainant is a money lender and conducts a money-lending business. This claim has not been denied by the de facto complainant.

5. The learned counsel for the 2nd respondent submitted that the petitioners not only failed to repay the loan amount but also threatened the de facto complainant, which led to the lodging of the present complaint. He argued that the investigation is still at a preliminary stage and that this is not merely a commercial transaction as alleged by the petitioners. Therefore, he contended that the petition is liable to be dismissed.



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6. To support his arguments, the learned counsel for the 2nd

respondent relied on the following cases:

**"Rajesh Bajaj vs. State NCT of Delhi [(1999) 3 SCC 259],**  
where it was stated:

*"10.It may be that the facts narrated in the present complaint would as well reveal a commercial transaction or money transaction. But that is hardly a reason for holding that the offence of cheating would elude from such a transaction. In fact, many a cheating were committed in the course of commercial and also money transactions. One of the illustrations set out under Section 415 of the Indian Penal Code (Illustration) is worthy of notice now"*

7. Further, he argued that under Section 482 of the CrPC, the Court should interfere in the investigation only in exceptional cases, and it is the statutory duty of the police to conduct the investigation. He cited **M/s. Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra [LL 2021 SC 211]**, where it was held that interference by the Court should be limited, in which it was stated as follows:

*"15. As observed hereinabove, there may be some cases where the initiation of criminal proceedings may be an abuse of process of law. In such cases, and only in exceptional cases and where it is found that non interference would result into miscarriage of justice, the High Court, in exercise of its inherent powers under Section 482 Cr.P.C. and/or Article 226 of the Constitution of India, may quash the FIR/complaint/criminal*

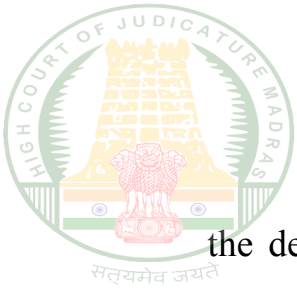


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*proceedings and even may stay the further investigation. However, the High Court should be slow in interfering the criminal proceedings at the initial stage, i.e., quashing petition filed immediately after lodging the FIR/complaint and no sufficient time is given to the police to investigate into the allegations of the FIR/complaint, which is the statutory right/duty of the police under the provisions of the Code of Criminal Procedure. There is no denial of the fact that power under Section 482 Cr.P.C. is very wide, but as observed by this Court in catena of decisions, referred to hereinabove, conferment of wide power requires the court to be more cautious and it casts an onerous and more diligent duty on the court. Therefore, in exceptional cases, when the High Court deems it fit, regard being had to the parameters of quashing and the self-restraint imposed by law, may pass appropriate interim orders, as thought apposite in law, however, the High Court has to give brief reasons which will reflect the application of mind by the court to the relevant facts."*

8. After considering both sides' submissions and examining the FIR, it is evident that the dispute between the de facto complainant and the petitioners pertains to a loan transaction. The FIR alleges that from 2013 to 2018, the petitioners borrowed and repaid portions of the loan, but eventually failed to repay the full balance. During the COVID-19 pandemic, they repaid Rs.1,50,000 through NEFT. The history of loan transactions and partial repayments between the parties clearly points to a civil dispute. Therefore, the present complaint does not substantiate the offences under Sections 294(b) and 506(ii) of the IPC. If there is any outstanding payment,



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the de facto complainant is entitled to approach a civil forum rather than color a civil dispute as a criminal case, which is against the principles of law.

9. Accordingly, this petition is allowed. The FIR registered in Crime No. 256 of 2022 against the petitioners on the file of the respondent police is ordered to be quashed. Consequently, the connected miscellaneous petition is closed.

07.11.2024

Index: Yes/ No

Neutral Citation: Yes/No

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To

1.The Inspector of Police,  
V-6, Kolathur Police Station,  
Chennai.  
Crime No.256 of 2022

2.The Public Prosecutor,  
High Court of Madras.



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**T.V.THAMILSELVI, J.**  
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