



Crl.O.P.(MD)No.7454 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.7454 of 2022

and

Crl.M.P.(MD)No.5077 of 2022

Sethumani Mathavan

... Petitioner

Vs.

Valarmathi

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the private complaint in HRC.No.2 of 2017 on the file of the District and Sessions Court, Thanjavur and quash the same as illegal as against the petitioner/A3.

For Petitioners : Mr.M.Palani

For Respondent : Mr.T.Antony Aurl Raj



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ORDER

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This Criminal Original Petition has been filed to quash the private complaint in HRC.No.2 of 2017 on the file of the District and Sessions Court, Thanjavur.

2.The respondent herein had instituted a private complaint against the petitioner and two others stating that she and her husband availed loan for the purpose of purchasing offset auto printers and the same was also sanctioned. The respondent paid the entire instalments and also paid the principal amount. However, the documents, which are produced for the purpose of availing loan, were not surrendered. The petitioner and other accused continuously entered into the premises and threatened and harassed them to surrender the premises. Hence, the respondent preferred a private complaint before the Judicial Magistrate Court-I, Thanjavur and the same was transferred to the District and Sessions Court, Thanjavur and re-numbered as HRC.No.2 of 2017. Challenging the same the present petition came to be filed.



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3.The learned counsel appearing for the petitioner submitted that the petitioner did not commit any offence as alleged by the prosecution and there is no specific overt act as against the petitioner. Accordingly, he prayed to quash the impugned charge sheet.

4.The learned counsel appearing for the respondent would submit that the learned Magistrate, after considering all the issues, had taken the complaint on file and all the grounds raised in the present petition are triable issue, which cannot be agitated before this Court in the present petition. Accordingly, he prayed to dismiss the present petition.

5.Heard the learned counsel on either side and perused the materials available in the record.

6.Time and again, this Court as well as the Supreme Court has cautioned the courts about the necessary precautions to be taken while quashing the criminal proceedings at the initial stage. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426).***



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7.In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. The petitioner cannot be let by quashing the charge framed against him as that would completely undermine the alleged acts, which is the subject matter of criminal trial pending against him.

8.For the reasons aforesaid, this Court finds no ground or scope to quash HRC.No.2 of 2017, pending on the file of the District and Sessions Court, Thanjavur. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petition is closed.

9.At this juncture, the learned counsel appearing for the petitioner submitted that this Court may consider dispensing with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the



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copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

28.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
gns

To

The District and Sessions Court, Thanjavur



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M.DHANDAPANI,J.

gns

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