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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2024

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THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

CrI.O.P(MD)No.12166 of 2022
and
CrI.M.P(MD)No.7690 of 2022

Perumal

... Petitioner

Vs

1. The Inspector of Police,
Karuppayoorani Police Station, Madurai.
In Crime No.400/2013.

2. Raman

... Respondents

PRAYER: Criminal Original petitions have been filed under Sections 439 (1) (b) of the Code of Criminal Procedure, to call for the records relating to the charge sheet in CC No.836 of 2019 on the file of the Learned Judicial Magistrate No.I, Madurai and quash the same in so for the petitioner is concerned.

For Petitioner	: Mr.R.Maheswaran
For R1	: Mr.B.Thanga Aravindh Government Advocate (CrI.Side)
For R2	: Mr.Jeya Kumar



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ORDER

This petition has been filed to quash the proceedings pending in C.C.No.836 of 2019 on the file of the learned Judicial Magistrate No.I, Madurai.

2.The second respondent gave a complaint to the first respondent stating that he was introduced to A1 by A2 and A3 for the purpose of taking a loan. A1 lent a sum of Rs.20,00,000/- as loan. As a security, the defacto complainant had handed over the original documents and thereby, the defacto complainant intended to create a mortgage over the property. On 11.03.2013, the defacto complainant was taken to the Registration Office in the guise that a mortgage deed is going to be registered as a security for the loan that was taken by the defacto complainant. However, the defacto complainant was cheated and A1 managed to get a sale deed executed in his favour. Thereafter, A1 was attempting to forcibly enter the property and when the same was questioned, the defacto complainant was threatened with dire consequences and that apart, A1 was also charging exorbitant interest in this case. Based on this complaint, the FIR came to be registered



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in Crime No.400 of 2013 by the first respondent police. On completion of investigation, a police report was filed before the learned Judicial Magistrate No.I, Madurai for the offence under Sections 506(1), 420 and 34 IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003. The Court below took cognizance of the police report and issued process to the accused persons. There are totally three accused persons in this case and the petitioner has been arrayed as A1.

3.Heard the learned Counsel appearing on either side.

4.The main allegation that has been made against A1 is that A1 after having lent the amount, gave an impression to the defacto complainant that the property belonging to the defacto complainant must be given as a security for the loan and the documents were also handed over to A1. However, the defacto complainant was misled and A1 managed to get a sale deed executed in his favour. Thereafter, A1 attempted to forcibly enter into the property and when the same was questioned, the defacto complainant was abused in filthy language and was threatened with dire consequences.

5.On carefully going through the records, it is seen that the



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defacto complainant, on the same cause of action filed a suit in O.S.No.143 of 2014 before the IV Additional District Court, Madurai, seeking for the relief of declaration to declare the sale deed, dated 11.03.2013 executed in favour of the petitioner as null and void and for permanent injunction. This suit was contested by the petitioner and the learned IV Additional District Judge, Madurai, by judgment and decree, dated 04.12.2021 dismissed the suit. Aggrieved by the same, the defacto complainant filed an appeal in A.S(MD)No.226 of 2022. This appeal was dismissed for default and subsequently, the defacto complainant has filed a petition to restore the appeal on file.

6.It is also relevant to take note of the order passed by this Court in CrI.O.P(MD)No.13252 of 2021, which was filed by A2 to quash the proceedings. The relevant portions in the order are extracted hereunder:

"8. It is pertinent to point out that the de facto complainant is well educated and was working as a Deputy Commissioner in Tamil Nadu Commercial Tax Department and subsequently retired on attaining superannuation. He has taken a stand that he executed a sale deed as a security for the loan obtained by him from the first accused and the first accused also promised him that a reconveyance deed would be made as soon as the entire loan amount with interest is liquidated. It is incomprehensible as to how a person like the present de facto complainant executed a sale deed



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for obtaining a loan.

9. The present petitioner (A2) had only introduced the de facto complainant to the first accused. The transaction is only between the de facto complainant and the first accused. Moreover, the suit filed by the de facto complainant against the first accused before the IV Additional District Court, Madurai seeking for a declaration that the sale deed dated 11.03.2013 executed by the de facto complainant in favour of the first accused is null and void and for a permanent injunction restraining the first accused from interfering with the peaceful possession and enjoyment of the suit property, was dismissed on 04.12.2021. The learned IV Additional District Judge in the judgment had observed that the de facto complainant was in the habit of obtaining loans by executing various mortgage deeds and sale agreements and had never repaid the same.

10. In any event, the allegation made against the present petitioner in the final report is very vague and merely because he had introduced the de facto complainant to the first accused, he cannot be charged for the offences punishable under Sections 506(1), 420 read with Section 34 of IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003. In fact, there is nothing on record to show that the petitioner had dishonest intention of cheating the de facto complainant right from the beginning."

7. The above reasoning that was given while quashing the proceedings for A2 will equally apply to the petitioner also. The defacto complainant was prosecuting his case both before the civil Court and the Criminal Court on the same cause of action. Even though there is no bar to prosecute a case before two forums, it is important to note that the defacto complainant was not able to satisfy the civil Court that he has been misled and cheated when the sale deed was executed in favour of A1, when the Court had applied the standard of proof of preponderance of probabilities. In a criminal case, the standard of proof is beyond reasonable doubts and it



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will almost be impossible for the second respondent to make out any offence against the petitioner.

8. In the considered view of this Court, a dispute which is purely civil in nature has been attempted to be given a criminal color in this case. A sale deed has been registered in favour of A1 and this document was registered in the presence of the Sub Registrar and the defacto complainant is not an unlettered person and he is a well educated person and retired Deputy Commissioner, who worked in the Tamil Nadu Commercial Tax Department. Therefore, it is too difficult to believe the version of the defacto complainant that he was cheated by A1 and as a result, the sale deed was executed in favour of A1.

9. The continuation of the criminal proceedings as against the petitioner (A1) will result in abuse of process of law and even on the materials placed before this Court, this Court does not find any offence made out against the petitioner. At the best, the second respondent can only workout his remedy before the civil court where the appeal is pending.

10. In the result, the proceedings in C.C.No.836 of 2019, pending on



the file of the learned Judicial Magistrate No.I, Madurai is quashed.

Accordingly, this criminal original petition stands allowed. Consequently, the connected miscellaneous petition is closed.

10.12.2024

Internet :Yes
Index :Yes/No
NCC :Yes/No
LR

To

1. Judicial Magistrate No.I, Madurai
- 2.The Inspector of Police,
Karuppayoorani Police Station, Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.

LR

Crl.O.P(MD)No.12166 of 2022

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