



Crl.O.P.(MD) No.14268 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2024

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THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.14268 of 2021

and

Crl.M.P.(MD) No.7476 of 2021

1.Mathanraj

2.S.Padma

... Petitioners

Vs.

1.The State

Represented by its Inspector of Police,
Central Crime Branch, Madurai.
(Crime No.3/2020)

2.K.Meenakshisundaram,
S/o.Kalyanasundaram,
The Branch Manager,
Dhanalaxmi Bank Ltd.,
No.3, LIC Street,
Madurai.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records relating to Crime No.3 of 2020, dated 04.01.2020, for the offences punishable under Sections 120B, 406, 409, 464, 468, 511 and 34 of Indian Penal Code, on the file of the first respondent police and quash the same as against the petitioners.



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For Petitioners : Mr.VR.Shanmuganathan
For R1 : Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)
For R2 : Mr.N.Sundar Rajan

ORDER

Seeking to quash the First Information Report [F.I.R.] in Crime No. 3 of 2020 of Central Crime Branch, Madurai City, the present Criminal Original Petition is filed by accused 2 and 3.

2. The *de facto* complainant is the Branch Manager of M/s.Dhanalakshmi Bank Ltd. having its registered office at Dhanalakshmi Buildings, Naickanal, Thrissur, Kerala State. It is incorporated under the provisions of the Banking Regulation Act, 1949.

3. The case of the prosecution is that the petitioners were sanctioned a housing loan of Rs.23.5 lakhs on 17.03.2016, out of which, the first petitioner availed a sum of Rs.5 lakhs on 21.03.2016, Rs.3.5 lakhs on 22.04.2016 and Rs.1 lakh on 02.05.2016 to construct a house in his plot. At the time of sanction of loan, the petitioners produced a valuation



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report and an approved plan. The second respondent Bank received a complaint from one of its customers against the then Branch Manager Mrs.Selvi, based on which, an internal enquiry was conducted, whereby, it was found that the first petitioner had not constructed any house in his site. On further scrutiny, it was found that the valuation report and the approved plan submitted by the petitioners were found to be fabricated. According to the second respondent Bank, the petitioners with an intention to get unlawful enrichment fabricated the documents in collusion with the then Branch Manager Selvi (A1). Therefore, they lodged a complaint with the Sub Inspector of Police, Central Crime Branch, Madurai City against the then Branch Manager and the present petitioners and the same was registered as F.I.R. in Crime No.3 of 2020 for the offences punishable under Sections 120B, 406, 409, 464, 468, 511 and 34 of IPC.

4. Mr.VR.Shanmuganathan, learned counsel for the petitioners would contend that though a sum of Rs.23.5 lakhs was sanctioned to the petitioners, they had availed only a sum of Rs.9.5 lakhs and they also repaid the entire amount. According to him, there is no wrongful loss to the second respondent Bank. It is also his contention that the valuation report



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was prepared by Mr.N.M.S.Shiyam, a registered architect and valuer at the request of the then Branch Manager of M/s.Dhanalakshmi Bank Limited. He would further contend that the petitioners had not fabricated any documents as alleged by the second respondent Bank.

5. Per contra, Mr.M.Sakthi Kumar, learned Government Advocate (Crl. Side) appearing for the first respondent produced a copy of the valuation report and the approved plan and contended that in both these documents, the valuer had denied his signature and therefore, the offences under Sections 120B, 406, 409, 464, 468, 511 and 34 of IPC are made out. His further contention is that the petitioners were granted anticipatory bail in Crl.O.P.(MD) No.1489 of 2020 by this Court on condition that they should appear before the police as and when required and that despite repeated summons issued under Section 41(A) of Cr.P.C., they did not appear before the police for enquiry. It is also his contention that the investigation so far done reveals the commission of offence, punishable under Sections 120B, 406, 409, 464, 468, 511 and 34 of IPC, by the present petitioners. He therefore prayed for dismissal of the present Criminal Original Petition.



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WEB COPY 6. Mr.N.Sundar Rajan, learned counsel for the second respondent Bank would contend that the then Branch Manager Selvi (A1) was dismissed from service on 26.10.2018 for committing fraud and for misappropriation of amount in collusion with various customers of Bank including the present petitioners and therefore, the F.I.R. as against the present petitioners cannot be quashed. He therefore prayed for dismissal of the present Criminal Original Petition.

7. A perusal of the records shows that there are two valuation reports, one dated 03.12.2018 and another dated 14.03.2016. However, the registered architect and valuer had denied his signature on the approved plan submitted by the present petitioners to the second respondent Bank for availing housing loan. The second respondent Bank also conducted a disciplinary enquiry against Selvi (A1), the then Branch Manager and she was subsequently dismissed from service. The petitioners have not also appeared before the police for enquiry even though several summons were issued under Section 41(A) of Cr.P.C.



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8. In the circumstances, I do not see any reason to quash the F.I.R.

Accordingly, this Criminal Original Petition stands dismissed.

Consequently, connected Miscellaneous Petition is also dismissed.

21.02.2024

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

JEN

To:

- 1.The Inspector of Police,
Central Crime Branch,
Madurai City, Madurai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.HEMALATHA, J.

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