



Crl.O.P.(MD)Nos.15078 of 2020 and 8560 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.O.P.(MD)Nos.15078 of 2020 and 8560 of 2021

and

Crl.M.P.(MD)Nos.7225 of 2020 and 4394 of 2021

Crl.O.P.(MD)No.15078 of 2020

1.P.S.Raghunathan

2.P.S.Chandran

... Petitioners/A1 & A2

VS.

1.The State Rep. by

The Inspector of Police,

K.Pudur Police Station,

K.Pudur, Madurai 625 007

... 1st Respondent/Complainant

2.Novrhoj Jayavelu

... 2nd Respondent/Defacto Complainant

Prayer:- Petition filed under Section 482 of Cr.P.C., to call for the entire records in Crime No.2540 of 2020 on the file of the first respondent, K.Pudur Police Station, Madurai and quash the FIR against the petitioners.

For Petitioners : Mr.L.Infant Dinesh

For Respondents : Mr.R.M.Anbunithi

Additional Public Prosecutor for R1

Mr.R.Sriram for R2



Crl.O.P.(MD)Nos.15078 of 2020 and 8560 of 2021

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Novrhoj Jayavelu

... Petitioner/A1

vs.

1.The State Rep. by
The Inspector of Police,
K.Pudur Police Station,
Madurai 625 007
Crime No.80 of 2021

... 1st Respondent/Complainant

2.S.Ragjhunathan

... 2nd Respondent/Defacto Complainant

3.The Inspector of Police,
City Crime Branch, Madurai. ... 3rd Respondent
[R3 is suo-motu impleaded vide order dated 19.08.2024]

Prayer:- Petition filed under Section 482 of Cr.P.C., to call for the entire records in Crime No.80 of 2021 pending on the file of the first respondent police dated 11.02.2021 and quash the same as against the petitioners concern.

For Petitioners : Mr.R.Sriram

For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor for R1 & R3

Mr.L.Infant Dinesh for R2

COMMON ORDER

These Criminal Original Petitions are interconnected and as such are taken up together and disposed of by this common judgment.



Crl.O.P.(MD)Nos.15078 of 2020 and 8560 of 2021

WEB COPY

2.Heard Mr.L.Infant Dinesh, learned counsel appearing on behalf of the petitioners in Crl.O.P.(MD)No.15078 of 2020 and Mr.R.Sriram, learned counsel appearing on behalf of the petitioner in Crl.O.P.(MD)No. 8560 of 2021.

3.The factual matrix in which these two petitions arise is that firstly, a complaint is lodged by the petitioner in Crl.O.P.(MD)No.8560 of 2021 to the effect that the petitioners in Crl.O.P.(MD)No.15078 of 2020 approached them on the pretext that they are going to produce a movie called 'DAVU' and promising to repay the amount with interest at the rate of 2% per month, totally obtained a loan of Rs.1,83,00,000/- and executed promissory notes and also executed an assignment of satellite right in respect of the movie 'DAVU'. But, subsequently they cheated the petitioners. On the strength of their complaint, a case in Crime No.2540 of 2020 was registered on 30.11.2020 for the offences under Sections 406 and 420 of IPC by the Inspector of Police, K.Pudur Police Station, Madurai City. Thereafter, it is stated by the petitioners in Crl.O.P.(MD)No.15078 of 2020, on the strength of the said case, they were brought to Madurai and kept under illegal custody and amounts which were not due from them to



Crl.O.P.(MD)Nos.15078 of 2020 and 8560 of 2021

the defacto complainant were extracted from them and therefore, they made representation and complaint. Since no action was taken, they approached the learned Judicial Magistrate No.VI, Madurai and by order dated 19.01.2021 in Cr.M.P.No.286 of 2021, the learned Judicial Magistrate directed the respondents to register a case and investigate into the same. Pursuant to which, a case in Crime No.80 of 2021 was also registered by the Inspector of Police, K.Pudur Police Station, Madurai City on 11.02.2021 for the offences under Sections 384, 420, 465 and 506(1) of IPC. Subsequently, since in the second case, the police officials are also arrayed as accused, the investigation, in respect of both cases, is transferred to the file of the Inspector of Police, Central Crime Branch, Madurai and the cases have been renumbered as Crime Nos.18 and 19 of 2024. In the meanwhile, the persons arrayed as accused in the respective crime numbers have filed these quash applications to quash the FIRs and since there is an interim order the matter is kept pending.

4.The contention made by Mr.L.Infant Dinesh, learned counsel appearing on behalf of the producers of the movie is that a reading of the First Information Report would reveal that it is a case of advancement of loan and non-repayment. According to him, even as per the complaint, it



Crl.O.P.(MD)Nos.15078 of 2020 and 8560 of 2021

WEB COPY

can be seen that a part of the amount is given through a bank transaction and the part of the amount is alleged to have been given by way of cash. As far as the part of the amount which is given by a bank transaction, the same has been repaid. No money is due. Even if any further amount is due, it is for the parties to approach the civil Court and absolutely no offence whatsoever will be made out. The learned counsel would further submit that in this case, just because, a police officer who happened to be the relative of the defacto complainant, came to be working in Madurai. artificially, they added a last line after the completion of the complaint that they gave a cash amount of Rs.50,00,000/- near Mattuthavani Bus stand and with that sentence, the FIR came to be lodged in K.Pudur Police Station at Madurai, by which, they were abused and the legal process was misused and they were kept under illegal custody and the money was sought to be extracted. Therefore, according to the learned counsel for the petitioner, the entire process is an abuse of process of law.

5.Per Contra, Mr.R.Sriram, learned counsel appearing in respect of the persons who lent the money, would submit that this is a case, where they have taken a loan both by banking transaction as well as by cash. In support thereof, promissory notes and other documents have been executed



Crl.O.P.(MD)Nos.15078 of 2020 and 8560 of 2021

by them. Subsequently, they have cleverly made an attempt to repay the amount, which is given only by the bank transaction alone and thereby trying to cheat the money lenders. He would submit that the very fact that the exorbitant interest was offered would amount to inducement. He would further submit that the entire loan was obtained by promising to produce the movie 'DAVU', but however, the entire money was not used for that purpose. We are in the year 2024, even now, the said movie 'DAVU' has not been completed or produced. Instead, the money was used for some other purpose to produce another movie and the petitioner clandestinely sought to release that movie and it is only on the verge of the said release of that film, the complaint was given. There is no abuse of process of law since part of the money was paid within the jurisdiction of Madurai also.

6.I have considered the rival submissions made on either side and perused the material records of the case.

7.At the first blush, a reading of the complaint portrays as if it is a civil dispute. But on careful consideration, I am in agreement with Mr.R.Sriram, learned counsel appearing on behalf of the money lenders that if the petitioners have promised that they are going to produce a movie



Crl.O.P.(MD)Nos.15078 of 2020 and 8560 of 2021

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called 'DAVU' and the loan was advanced pursuant thereto an assignment of satellite right in respect of the movie 'DAVU' was also granted to the money lenders pursuant to the agreement between the parties, then if the movie producers have not at all indulged in producing that movie and instead utilized the money to produce some other movie, then the case cannot be said to be a civil matter. The case *prima facie* of smacks of cheating and breach of trust.

8.The learned counsel for the petitioners, Mr.L.Infant Dinesh would submit that the entire case as projected by the respondents that the borrowal was only with reference to the movie 'DAVU' is false, as a matter of fact, it was given only for the production of the other movie. But such an assertion would involve considering the explanation which is given by the accused, the veracity of which can be gone into only by the investigating officer at the stage of investigation and on that basis, this Court cannot quash the First Information Report. Therefore, I hold that no case is made out to quash the FIR in Crime No.2540 of 2020.

9.Coming to the submissions made by Mr.R.Sriram, learned counsel for the petitioner, the gravamen of the allegations in the second



Crl.O.P.(MD)Nos.15078 of 2020 and 8560 of 2021

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FIR is that the legal process of lodging the complaint has been abused, just because, a relative police officer was in Madurai. *Prima facie*, the perusal of the FIR, it can be seen that after the narration of the entire complaint, a last line is subsequently included by saying that a sum of Rs.50,00,000/- was parted away near Mattuthavani bus stand at Madurai. Therefore, when the parties are producing the movie at Chennai and the money lenders address being at Erode, *prima facie* there appears to be a case for investigation with reference to the second case also, and even in this case, the argument made by Mr.R.Sriram are factual in nature, which are to be presented before the appropriate investigating authority. It is for the petitioners to prove that they actually paid the money in Madurai so as to invoke the jurisdiction and the case was not an abuse of process of law.

10.In view thereof, I see no grounds to interfere in the second First Information Report in Crime No.80 of 2021, which is lodged pursuant to the direction of the Judicial Magistrate No.VI, Madurai. Therefore, in both these matters, leaving open for the parties to go before the Investigating Officer with the facts as per their case and produce such documents before the Investigating Officer and it is for the Investigating Officer to consider the truth or otherwise and to file a final report



Crl.O.P.(MD)Nos.15078 of 2020 and 8560 of 2021

appropriately in the matters, I find no case to interfere at this stage of the First Information Reports and at the stage of the investigation. Accordingly, finding no merits, both Criminal Petitions stand dismissed. Consequently, connected miscellaneous petitions are closed.

11.Considering the fact that the police officials are arrayed as accused 5 and 6, who are in the rank of the Retired Deputy Commissioner and the other accused being in the cadre of Additional Deputy Superintendent of Police, the investigation can be taken up by any official higher than the rank of the said officials and considering the same, the investigation shall be taken up by the jurisdictional Deputy Commissioner, namely the Deputy Commissioner (North), Madurai and he shall complete the investigation and file a final report as expeditiously as possible.

29.08.2024

NCC : Yes/No
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To

1.The Deputy Commissioner (North), Madurai.

2.The Inspector of Police,
K.Pudur Police Station,
K.Pudur, Madurai 625 007



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Crl.O.P.(MD)Nos.15078 of 2020 and 8560 of 2021

D.BHARATHA CHAKRAVARTHY, J.

sjj

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P.(MD)Nos.15078 of 2020 and 8560 of 2021

29.08.2024