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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 21.03.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL. O.P (MD) NO.19273 OF 2022

AND

CRL. M.P. (MD) NO.13034 OF 2022

K.Balamurugan

.. Petitioner

- Vs -

1.The Sub Inspector of Police,
Central Crime Branch,
Tirunelveli City,
Tirunelveli District.

2.Babu Jacob

.. Respondents

Criminal Original Petition filed u/s 482 Cr.P.C. to call for the records in Crime No.13 of 2022 on the file of the 1st respondent herein and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr. P.Jesus Mois Ravi

For Respondents : Mr. S.Manikandan, GA (Crl.
Side), for R-1
Mr. S.Thangaraj for R-2



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ORDER

Seeking to quash the case in Crime No.13 of 2022 on the file of the 1st respondent, the present petition has been filed by the petitioner.

2. It is the case of the prosecution that the petitioner promised to arrange loan to the tune of Rs.10 Crores to the 2nd respondent/defacto complainant for the purpose of expanding his business operations and towards the same, the defacto complainant paid an advance amount of Rs.10 Lakhs. However, the petitioner neither arranged the loan nor repaid the advance amount inspite of repeated requests made by the defacto complainant. It is the further allegation that the petitioner forged a settlement deed alleged to have been entered into between the petitioner and the defacto complainant and based on the same filed a civil suit against the defacto complainant. Due to the aforesaid activities of the petitioner, the defacto complainant lodged a complaint against the petitioner resulting in the registration of Crime No.13 of 2022 by the 1st respondent.



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3. Learned counsel appearing for the petitioner submitted that the petitioner is doing business of providing hand loans and other loans for interest to people for doing business and the petitioner is also doing real estate business. He further submits that the matter already having been sub judice before the civil court, only to harass the petitioner, the present complaint has been registered by the 1st respondent. He further submits that if the settlement deed is alleged to have been forged, the civil court could very well ascertain the genuineness of the same.

4. Learned Government Advocate (Crl. Side) appearing for the 1st respondent submitted that in the absence of any order of stay by this Court, the investigation was taken to its logical conclusion and upon completion of investigation final report was filed before the concerned court and the same was taken on file.

5. Learned counsel appearing for the defacto complainant submits that the whole case hinges upon the settlement deed, which is alleged to have been entered into between the petitioner and the defacto complainant. Only to wriggle out of the clutches of paying the amount of



Rs.10 Lakhs to the defacto complainant, the petitioner had fabricated the settlement deed and, therefore, necessarily the genuineness of the settlement deed and more particularly the signatures therein need to be established and, therefore, this Court may direct the civil court to send the settlement deed for expert opinion with regard to the signature of the defacto complainant.

6. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

7. Though contentions and counter contentions have been advanced by either side in support of their stand, however, in view of the fact that investigation has been completed pending the present petition and charge sheet has been filed and cognizance has been taken of the matter and that the whole case revolves around the authenticity of the settlement deed, this Court is of the considered view that it would suffice if this Court issues a direction to either of the parties to file appropriate application before the concerned trial court for referring the settlement



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deed dated 7.6.2022 for expert opinion and upon such application being filed, the trial court may send the said document for expert opinion for the purpose of proceeding further with the trial.

8. For the reasons aforesaid, this petition is disposed of directing the either of the parties to file appropriate application along with a copy of this order before the concerned trial court for referring the settlement deed dated 7.6.2022 for expert opinion and upon such application being filed along with a copy of this order, the concerned trial court may send the settlement deed dated 7.6.2022 for expert opinion to ascertain the authenticity of the signature of the parties, viz., the petitioner and the 2nd respondent/defacto complainant and, thereafter, further with the trial. Consequently, connected miscellaneous petition is closed.

21.03.2024

Index : Yes / No

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To

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1. The Sub Inspector of Police,
Central Crime Branch,
Tirunelveli City,
Tirunelveli District.

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



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M.DHANDAPANI, J.

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