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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL OP(MD).No.18437 of 2023

and

CRL MP(MD). Nos.14569 and 14571 of 2023

1.Rajagopal

2.Gopal

...Petitioners / Accused 1 and 2

Vs.

1. The State represented by
The Inspector of Police,
District Crime Branch,
Virudhunagar District.
(Crime No.7 of 2019)

..1st respondent / Complainant

2. Chandra

..2nd respondent / Defacto
Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records relating to the proceedings of charge sheet in C.C.No.113 of 2023 on the file of the learned Judicial Magistrate No.II, Virudhunagar and quash the same.

For Petitioners : Mr.G.Mariappan



2

For R1 : Mr.B.Thanga Aravindh,
Government Advocate
(Criminal Side)

For R2 : Mr.V.R.Shanmuganathan

ORDER

This petition has been filed seeking to quash the proceedings pending in C.C.No.113 of 2023 on the file of the learned Judicial Magistrate No.II, Virudhunagar.

2. The case of the prosecution is that the 2nd respondent is the mother of A1 and wife of A2. According to the 2nd respondent, the 2nd respondent had pledged certain jewels with a bank and she went to the bank on 19.10.2019 for redeeming the jewels. She was told that on 12.04.2019 and 31.08.2019, the husband of the defacto complainant had made some payments based on some authorization letter that is said to have been given by the 2nd respondent and he has taken the jewels after settling the amount. Based on this complaint, FIR came to be registered. On completion of investigation, police report was filed before the learned Judicial Magistrate-II, Virudhunagar and the same was taken on file in

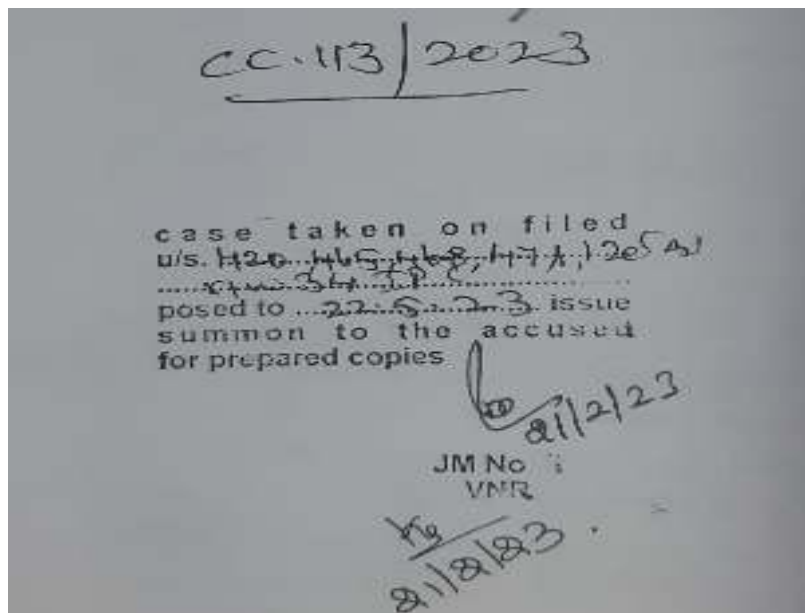


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C.C.No.113 of 2023. The Court below took cognizance for offence under Sections 420, 465, 468, 471, 120B and 34 of IPC.

3. Heard the learned counsel on either side and perused the materials placed on record.

4. It is not necessary for this Court to go into the various issues that was raised since this Court finds that a rubber stamp cognizance has been taken by the Court below. For proper appreciation, the same is scanned and extracted hereunder:-





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5. This Court by relying upon the judgment of the Apex Court has repeatedly held that the process of taking cognizance is a judicial process which requires application of mind. A rubber stamp cognizance is no cognizance in the eye of law since what is being done is to put the seal in the complaint and fill-up the gaps. Such rubber stamp cognizance has been frowned upon by this Court. Useful reference can be made to the judgment of this Court in ***Shanmugam and others v. Inspector of Police, Ariyalur Police Station, Ariyalur and others***, reported in (2019) 3 MLJ (Crl.) 339. The Apex Court also dealt with this issue in ***S.K.Sinha, Chief Enforcement Officer v. Videocon International Ltd & Ors.***, reported in (2008) 1 SCC (Crl.) 471.

6. In view of the above, the rubber stamp cognizance taken by the Court below is hereby set aside. The matter is remitted back to the file of the learned Judicial Magistrate No.II, Virudhunagar and the learned Judicial Magistrate shall apply his mind on the allegations made in the complaint and the materials relied upon and pass appropriate orders which must reflect the application of mind. This process shall be complied within a period of four weeks from the date of receipt of a copy



of this order.

7. In the result, this Criminal Original Petition is allowed in the above terms. Consequently, connected miscellaneous petitions are closed.

19.12.2024

NCC : Yes / No
Index : Yes / No
Internet: Yes / No
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To

1. The Judicial Magistrate No.II,
Virudhunagar.
2. The Inspector of Police,
District Crime Branch,
Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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6

N.ANAND VENKATESH.J.,

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