



Crl.O.P.(MD) No.819 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.09.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.819 of 2024

and

Crl.M.P.(MD).Nos.485 and 486 of 2024

M.Periyathai @ Duraichi

... Petitioner / Accused No.1

Vs.

1. The State Rep. by
The Inspector of Police,
Sankarankovil Town Police Station,
Tenkasi District.
Crime No.578 of 2017.

...1st Respondent / Complainant

2. Mariya James

...2nd Respondent / Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the impugned Charge Sheet proceedings in C.C.No.290 of 2020 pending on the file of the learned Judicial Magistrate, Sankarankovil, Tenkasi District and quash the same as illegal in so far as the Petitioner/Accused No.1 is concerned.

For Petitioner : Mr.S.Ramesh,

For R1 : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

For R2 : Mr.R.J.Karthick



Crl.O.P.(MD) No.819 of 2024

ORDER

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This petition has been filed to quash impugned Charge Sheet proceedings in C.C.No.290 of 2020 pending on the file of the learned Judicial Magistrate, Sankarnkovil, Tenkasi District for the offences punishable under Sections 506(ii) of IPC and Section 4 of TN Prohibition of Charging Exorbitant Interest Act, 2003, as against the petitioner.

2. The allegation in the Final Report is that the defacto complainant had borrowed a sum of Rs.2,00,000/- from the first accused and had mortgaged his house property and vacant land as security for the said loan; that though the mortgage deed mentioned the rate of interest as 1% per month, the petitioner had charged exorbitant interest; that despite the defacto complainant having repaid a sum of Rs.2,16,000/-, the petitioner demanded further payment to discharge the mortgage and return the sale deeds; and that the petitioner is liable for the aforesaid offences.

3. The learned counsel for the petitioner would submit that the impugned Final Report is an abuse of process of law; that, since the defacto complainant had failed to make the payment, a false complaint has been lodged to attract the offences under Section 4 of the TN Prohibition of Charging Exorbitant Interest



Crl.O.P.(MD) No.819 of 2024

Act, 2003; that the petitioner has filed a suit in O.S.No.10 of 2018 for the recovery of principal and interest and the Sub-Court, Sankarankovil has passed judgment and decree on 13.09.2022, allowing the petitioner's suit; that the second respondent had challenged the said judgment and decree before the first Appellate Court/Additional District Court, Tenkasi, in A.S.No.5 of 2023, which was also dismissed on 17.08.2023; that an Execution Petition is now pending before the Execution Court; and that in the light of the findings of the Civil Court, the impugned prosecution as against the petitioner is liable to be quashed.

4. The learned counsel for the second respondent would vehemently submit that the findings of the Civil Court would not have any bearing on the present criminal proceedings; that the allegation in the impugned Final Report is that the petitioner had charged exorbitant interest, which has to be adjudicated only by the Criminal Court; and that therefore, the impugned prosecution may not be quashed at this stage.

5. The learned Additional Public Prosecutor for the first respondent, on instructions, would submit that they have produced material along with the Final Report to show that the petitioner had charged the exorbitant interest from



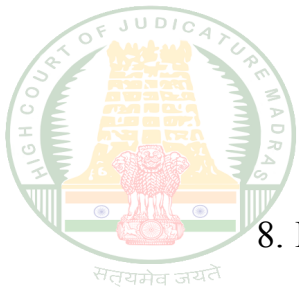
Crl.O.P.(MD) No.819 of 2024

the second respondent.

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6. As stated earlier, the allegation against the petitioner is that he had charged exorbitant interest and inspite of receipt of the principal amount, he failed to cancel the mortgage and return the title documents to the second respondent.

7. Admittedly, the petitioner had filed the suit for recovery of money. The only defence taken by the second respondent before the trial Court was that he had discharged the loan amount as early as in July 2017 along with the interest of Rs.16,000/-. The Sub-Court found that the respondent herein had not established the discharge of the said loan. The Sub Court, on the other hand, found that the respondent had borrowed Rs.2,16,000 from the plaintiff. Accordingly, the suit was decreed, directing the second respondent to pay a sum of Rs.2,78,933/- inclusive of interest. In fact, the criminal complaint was also taken note of by the learned Sub Court during the course of the proceedings. The appeal filed by the second respondent, as stated earlier, also was also dismissed, holding that the second respondent had failed to establish repayment of the loan.



Crl.O.P.(MD) No.819 of 2024

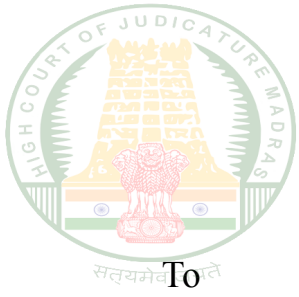
8. In the light of the findings rendered in the suit as well as in the appeal, this Court is of the view that the allegation that the second respondent had paid Rs.2,16,000/- to the petitioner is false. Consequently, this Court is of the view that the further allegation that the petitioner had charged exorbitant interest also cannot be sustained since the petitioner had only sought for interest at the rate of 12%, which was decreed by the trial Court.

9. Therefore, this Court is of the view that the impugned prosecution is clearly malafide and is an abuse of process law. Accordingly, the Charge Sheet proceeding in C.C.No.290 of 2020 pending on the file of the learned Judicial Magistrate, Sankarnkovil, Tenkasi District is quashed. Consequently, connected Miscellaneous Petitions stand closed.

16.09.2025

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

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Crl.O.P.(MD) No.819 of 2024

To

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1. The learned Judicial Magistrate,
Sankarnkovil,
Tenkasi District.
2. The Inspector of Police,
Sankarankovil Town Police Station,
Tenkasi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) No.819 of 2024

SUNDER MOHAN, J.

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Crl.O.P(MD).No.819 of 2024

16.09.2025