

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.4594 of 2013 & M.P. No.1 of 2013

1 Chitrarasu
2 Elango

Petitioners

vs.

The State by Inspector of Police
District Crime Branch
Vellore

Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the entire records pursuant to the order dated 30.01.2013 made in Crl.R.P. No.21 of 2012 in C.C. No.128 of 2010 on the file of the District and Sessions Judge, Vellore, confirming the order dated 19.07.2011 made in C.M.P. No.1944 of 2011 in C.C. No.128 of 2010 on the file of the Judicial Magistrate No.II, Vellore and set aside them.

For petitioners Mr. Swami Subramanian
For respondent Mr. C. Emalias
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed seeking to call for the entire records pursuant to the order dated 30.01.2013 made in Crl.R.P. No.21 of 2012 in C.C.No.128 of 2010 on the file of the District and Sessions Judge, Vellore, confirming the order dated 19.07.2011 made in C.M.P. No.1944 of 2011 in C.C.No.128 of 2010 on the file of the Judicial Magistrate No.II, Vellore and set aside them.

2 Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the respondent-State.

3 On the complaint lodged by one K.T. Devan, the respondent police registered a case in Crime No.52 of 2007 and after completing the investigation, has filed a final report against the petitioners, which is pending in C.C.No.128/2010 before the Judicial Magistrate Court No.II, Vellore. On receipt of summons from the Trial Court, the petitioners/accused appeared before the Trial Court and they were served with papers under Section 207, Cr.P.C. The petitioners filed a petition in

C.M.P. No.1944 of 2011 under Section 239, Cr.P.C. for discharge and the Trial Court, by a detailed order, dismissed the said petition on 19.07.2011. Thereafter, they filed a Criminal Revision Petition in Cr.R.P.No.21 of 2012 before the District and Sessions Court, Vellore, which was dismissed on 30.01.2013. Challenging the orders passed by the Courts below, the petitioners are before this Court under Section 482, Cr.P.C.

4 Under Section 397(3) Cr.P.C., when once a person approaches the Sessions Court, he is precluded from filing a second revision before the High Court. However, a petition under Section 482, Cr.P.C. is maintainable before the High Court, where, it is shown that the orders passed by the Courts below suffer from serious illegality causing prejudice to the parties.

5 It is the case of the prosecution that the de facto complainant conducted unauthorised chits, in which, the petitioners joined and received Rs.3 lakhs and Rs.1 lakh respectively, after bidding the chit, which, they failed to repay, thereby, cheating the de facto complainant.

6 The Courts below have found that there are prima facie materials for the trial to proceed as against the petitioners. Hence, this is not a fit case, where, the jurisdiction of this Court should be invoked for setting aside the orders passed by the Courts below, on facts.

In the result, this Criminal Original Petition is dismissed with liberty to the petitioners to raise all the points before the Trial Court. Connected CrI.M.P. is closed.
cad

s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

- 1 The State by Inspector of Police
District Crime Branch, Vellore
- 2 The District and Sessions Judge, Vellore
- 3 The Judicial Magistrate No.II, Vellore
- 4 The Public Prosecutor, High Court of Madras, Chennai 600 104

+ 1 cc to Swami Subramanian, Advocate SR 37310

ssk(co)
prk19/7

CrI.O.P. No.4594 of 2013