

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.4619 of 2013 & M.P. No.1 of 2013

Chitrarasu

Petitioner

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.23 of 2012 in C.C. No.129 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.1946 of 2011 in C.C. No.129 of 2010 on the file of the Judicial Magistrate No.II, Vellore and set aside them.

For petitioner Mr. T.P. Prabakaran

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.23 of 2012 in C.C.No.129 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.1946 of 2011 in C.C.No.129 of 2010 on the file of the Judicial Magistrate No.II, Vellore and set aside them.

2 Heard the learned counsel for the petitioner 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 petitioner and the same is now pending in C.C. No.129 of 2010 on the file of the Judicial Magistrate Court No. II, Vellore. After receipt of summons from the Trial Court, the petitioner appeared before the Trial Court and he was served with a copy of the final report and documents under Section 207

Cr.P.C. The petitioner filed C.M.P. No.1946 of 2011 in C.C. No.129 of 2010 under Section 239, Cr.P.C. for discharging him from the prosecution. The Trial Court, after hearing both sides, dismissed C.M.P. No.1946 of 2011 on 19.07.2011. Aggrieved by the said order, the petitioner preferred a Criminal Revision Petition in Cr.R.P. No.23 of 2012 before the Principal District and Sessions Court, Vellore, which was also dismissed on 30.01.2013. Thereafter, the petitioner has preferred the present Criminal Original Petition under Section 482 Cr.P.C., challenging the orders passed by the Courts below.

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, in certain circumstances, where it is shown that the orders of the Courts below are manifestly illegal, then, the jurisdiction of this Court under Section 482, Cr.P.C. can be invoked.

5 In this case, it is the allegation of the de facto complainant that the accused induced him to give Rs.16 lakhs on false promise and thereafter, cheated him of the money. Both the Courts below have appreciated the materials on record and have concluded that there is prima facie material against the petitioner for facing trial. This Court cannot re-appreciate the facts of the case in a petition filed under Section 482, Cr.P.C.

In the result, this Criminal Original Petition is dismissed with liberty to the petitioner to raise all the points before the Trial Court. Connected Crl.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 Mr.T.P.Prabakaran, Advocate SR 32234

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prk19/7

Cr1.O.P. No.4619 of 2013