

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2018

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.O.P.No.16921 of 2018

and

CRL.M.P.Nos.8738 and 8739 of 2018

S.Jegan @ Vithyanath

...Petitioner

Vs.

1.The Inspector of Police,
District Crime Branch,
Cuddalore.
(Crime No.3 of 2016)

2.V.Mahesh
S/o.Venkatesan

... Respondents

Criminal Original Petition is filed under Section 482 of Cr.P.C to call for the entire records in C.C.No.52 of 2018 on the file of Judicial Magistrate-I, Panruti and quash the same.

For Petitioner : Mr.B.Manimaran

For R1 : Ms.P.Kritika Kamal,
Government Advocate (Cr1.Side)

O R D E R

This criminal original petition has been filed to call for the entire records in C.C.No.52 of 2018 on the file of Judicial Magistrate-I, Panruti and quash the same.

2. On the complaint lodged by the second respondent, the first respondent police registered a case in Crime No.3 of 2016 and after completing the investigation, have filed a charge sheet in C.C.No.52 of 2018 before the Judicial Magistrate-I, Panruti for the offences under Sections 417, 418 and 420 IPC against the petitioner/accused herein, for quashing which, the accused is before this Court.

3. Heard the learned Counsel for the petitioner/accused and the learned Government Advocate (Cr1.Side) for the first respondent.

4. It is the case of the de-facto complainant that the accused represented to him that he is a Bank agent and that he is also the Manager of Dhanalakshmi Srinivasan Chit Funds, wherein, he has joined a Chit for Rs.25,00,000/-and that he will obtain loan from the Bank and that on believing the said representation, the de-facto complainant paid Rs.7,04,475/- (Rupees Seven lakhs Four Thousand Four hundred and Seventy Five only) and later, it came to light that the accused was not in any way associated with the said Chit Funds.

5. The learned counsel for the petitioner/accused took this Court thorough Section 161(3) Cr.P.C statement of one Tharagaram and one Selvakumar, wherein, the Investigating Officer has shown the date of recording the statement as 26.12.2016 and 26.12.2017 respectively. Based on this, the learned counsel contended that there was no proper investigation.

6. In the opinion of this Court, the date recorded by the Investigating Officer in Section 161(3) Cr.P.C., statement can have no bearing at all because a statement under Section 161(3) Cr.P.C., is not substantive piece of evidence. That apart, what is relevant is the statement of the victim viz., Magesh (LW-1), wherein, he has clearly stated the manner in which he was cheated.

7. Under such circumstances, this is not a fit case to quash the prosecution since there are prima facie materials to frame charges against the petitioner/accused.

8. Hence, this petition is dismissed with liberty to the petitioner to raise all the points before the Trial Court after the charges are framed. Consequently, connected miscellaneous petitions are closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

kmi
To

1. The Judicial Magistrate-I,
Panruti.

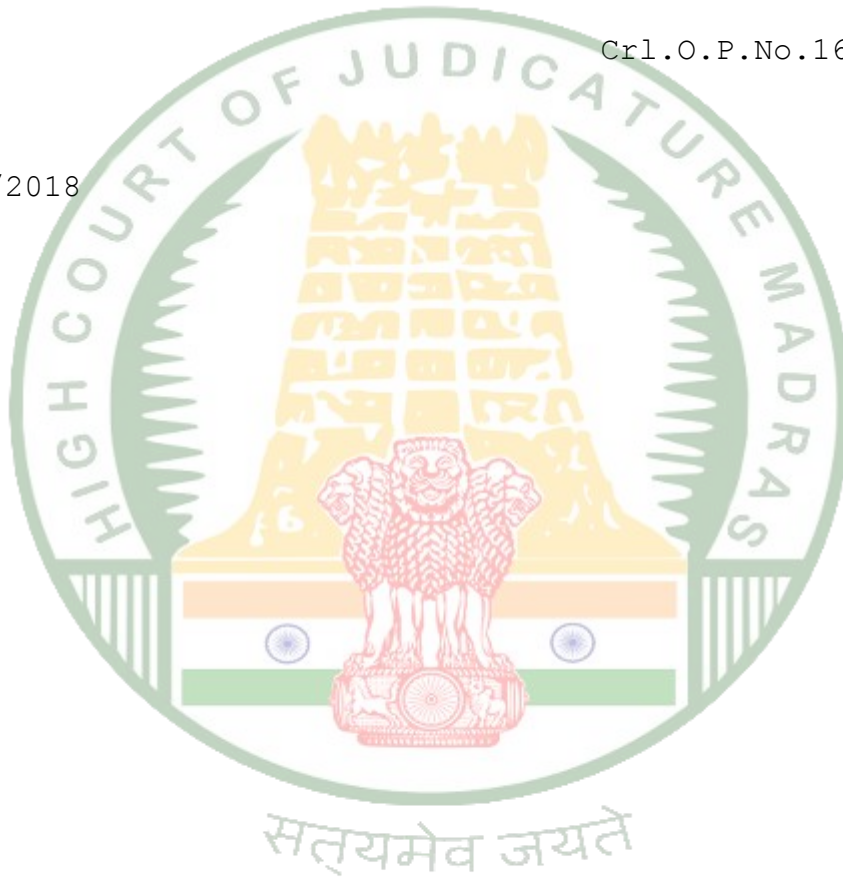
2. The Inspector of Police,
District Crime Branch, Cuddalore.

3. The Public Prosecutor,
High Court, Madras-104.

+lcc to Mr.B.Manimaran, Advocate Sr.44341

Cr1.O.P.No.16921 of 2018
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