

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :06.09.2018
Pronounced on :06.03.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.12405 of 2010 and
Crl.M.P.Nos.1 & 2 of 2010

Kalaivanan

... Petitioner

/Vs./

1.The State Rep. By,
The Sub Inspector of Police,
District Crime Branch,
Sathuvachari
Vellore-9.

2.M.Subramaniam ... Respondents
(Impleaded the 2nd respondent as per the order of this Court in
Crl.M.P.No.3 of 2010 dated 26.10.2010)

PRAYER: Criminal Original Petitions are filed under Section 482
of the Code of Criminal Procedure, praying to quash the
proceedings in C.C.No.35 of 2009 on the file of the Judicial
Magistrate Court No.II, Vellore.

For Petitioner : Mr.S.Raja Ravi Varma

For R1 : Mrs.V.Saratha Devi
Government Advocate [Crl. Side]

For R2 : No Appearance

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O R D E R

This Criminal Original Petition has been filed praying to
quash the proceedings in C.C.No.35 of 2009 on the file of the
Judicial Magistrate Court No.II, Vellore.

2.The short facts of the case are as follows:-

One P.C.Gopal, approached the 2nd respondent/complainant and
told that he will get Teacher Training seat for the 2nd

respondent/complainant's daughter along with the petitioner and obtained a sum of Rs.2,00,000/- (Rupees two lakhs only), but he did not act, as promised and not returned the amount, thereby cheated the 2nd respondent/complainant. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that in the complaint, there is no specific allegation levelled against the petitioner. He would submit that the entire final report does not reveal anything about the college in which the victim sought for admission or for which college the accused assured to get seat for the defacto complainant's daughter. He would also submit that the incident had taken place during the year 2005 and after a long time a false case has been foisted with an ulterior motive to harass the petitioner. Hence, the learned counsel prayed for quash the proceedings. The learned counsel drew the attention of this Court to the Judgement of Hon'ble Supreme Court in Inder Mohan Goswami and Another Vs. State of Uttaranchal and others reported in (CDJ 2007 SC 1074) in support of his contentions.

4. The learned Government Advocate [Crl. Side] appearing for the 1st respondent would submit that the petitioner/A2 and A1 in this case approached the 1st respondent/complainant, for arranging a seat in Teacher Training College, for which the petitioner/A2 and A1 received a sum of Rs.2,00,000/- (Rupees two lakhs only). However, they did not act, as promised and not returned the amount, thereby cheated the 2nd respondent/complainant. Based on the complaint of the defacto complainant, a case has been registered in Crime No.45 of 2007, on the file of the 1st respondent Police and after investigation, filed a final report under Section 173(2) of Cr.P.C, which was taken on file in C.C.No.35 of 2009, by the learned Judicial Magistrate No.II, Vellore. Hence, the learned Government Advocate prayed for dismissal of this petition.

5. I have heard the learned counsels appearing on either side and perused the materials available on record.

6. It is seen that the petitioner/A2 along with another accused were cheated eleven persons to a tune of several lakhs on the guise of securing a seat in Teacher Training College, Bangalore and on that score, they have arranged a Training Programme at Thiruthani, thereafter made them to attend an exam at Sri Venkateshwara Engineering College, Chittoor in Andhra Pradesh. Till the date of the complaint, nothing was heard. Thereafter, later it revealed that the entire programme of exam had been stage mannered by the petitioner/A2 and A1 to cheat the gullible persons. The statement of victims, who were cheated by the petitioner/A2 and A1, reveal that they have been cheated at the hands of the petitioner.

7. Considering the facts and circumstances of this case, this Criminal Original Petition stands dismissed. The case is of the year 2009, it is nearly a decade. The trial Court is directed to give priority on a day to day basis and dispose the above case C.C.No.35 of 2009 within a stipulated period from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vv2

To

- 1.The Judicial Magistrate No.II,
Vellore.
- 2.-Do Thro' Chief Judicial Magistrate,
Vellore.
- 3.The Sub Inspector of Police,
District Crime Branch,
Sathuvachari
Vellore-9.
- 4.The Public Prosecutor,
High Court, Madras.

Copy to: The section officer,
Criminal Section,
High court, Madras-104

NOTE: The learned Judicial Magistrate No.II, Vellore in response to the High Court letter in C.O.No.131 of 2017, dated 02.03.2017 through Dis.No.187 of 2017, dated 06.03.2017 had informed that all the records pertaining to C.C.No.35 of 2009, including the documents have been sent to this Court. Hence, the Registry is directed to send back all the case papers and records in C.C.No.35 of 2009 immediately.

ORDER IN

CrI.O.P.No.12405 of 2010

PPA(CO)
CB(23/04/2019)