

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.10.2020

PRONOUNCED ON : 28.10.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.4241 of 2017 and CRL.M.P.No.3159 of 2017
AND

CRL.O.P.No.26464 of 2019 and CRL.M.P.No.14160 of 2019

CRL.O.P.No.4241 of 2017

R.Manimegalai .. Petitioner

Vs.

State by

1.The Inspector of Police
Central Crime Branch
Egmore, Chennai

2.Dr.M.R.Muralikrishnan

3.Arthi

.. Respondents

Prayer:-Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.3946 of 2007 on the file of the Additional Metropolitan Magistrate, Egmore, Chennai and quash the same.

For Petitioner : Mr.A.Thiyagarajan

For R1 : Mr.L.Charles Premkumar
Govt.Advocate (Crl. Side)

For R2 & R3 : Mrs.P.V.Rajeswari

CRL.O.P.No.26464 of 2019

Kandeepan .. Petitioner

Vs.

State by

1.The Inspector of Police
Central Crime Branch
Egmore, Chennai

2.Dr.M.R.Muralikrishnan

3.Arthi

.. Respondents

Prayer:-

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.3946 of 2007 on the file of the Additional Metropolitan Magistrate, Egmore, Chennai and quash the charge sheet.

For Petitioner : Mr.R.Rajarathinam
for Mr.V.Rajamohan

For R1 : Mr.L.Charles Premkumar
Govt.Advocate (Crl. Side)

For R2 & R3 : Mrs.P.V.Rajeswari

C O M M O N O R D E R

In view of commonality of the issues involved, these Criminal Original Petitions are considered and decided by this common order.

2. For the sake of convenience, the parties will be referred to by their names.

3. Uncontroverted facts are as under :

Rajendran (A1) was a tenant under Arthi (de facto complainant). Rajendran was into mining business in Andhra Pradesh. Rajendran wanted money for his business. So, he entered into an agreement with Arthi on 26.06.1996, agreeing to take her as a partner in the business and took Rs.25,00,000/- from her. Somewhere his venture did not fructify and he was not able to return the amount to Arthi. When Arthi started asking for her money, Rajendran quit the premises of Arthi on 22.01.2001 and on 23.01.2001 entered into a fresh agreement with her, undertaking to repay a sum of Rs.24,00,000/- with interest at 24% per annum. When Rajendran was not able to return the money, Arthi filed a suit in C.S.No.923 of 2002 in the High Court against Rajendran for Rs.59,00,000/- and also obtained a decree against him. Arthi and her husband Muralikrishnan, simultaneously filed a private complaint in Crl.M.P.No.2201 of 2002 in the Court of the V Metropolitan Magistrate, Egmore for the offences under Sections 403, 405, 406, 415, 420, 120-B and 506(ii) read with Section 34 IPC against Rajendran (A1), his brother Kandeepam (A2) and his wife Manimegalai (A3). The Magistrate mechanically ordered police investigation under

Section 156(3) Cr.P.C. on 01.04.2002. Therefore, the police registered an F.I.R. in Crime No.284 of 2002 against the aforesaid trio for the offences stated above. After completing the investigation, the police filed a Closure Report in the Court saying that the matter is civil in nature. Muralikrishnan and Arthi filed a protest application, in which, further investigation was ordered by the Magistrate on 20.02.2007. The police conducted further investigation and filed a charge sheet in C.C.No.3946 of 2007 for the offence under Section 420 read with Section 34 IPC against Rajendran (A1), Kandeepan (A2) and Manimegalai (A3), for quashing which, Kandeepan and Manimegalai are before this Court.

4. Heard Mr.A.Thiyagarajan, learned counsel for Manimegalai; Mr.R.Rajaratnam, learned counsel for Kandeepan; Mr.L.Charles Premkumar, learned Government Advocate (Crl. Side) for the respondent State and Mrs.P.V.Rajeswari for Arthi and Muralikrishnan.

5. All the documents unmistakably show that Arthi had entered into various agreements with Rajendran and had invested Rs.25,00,000/- in the granite business. These agreements form part and parcel of the complaint that was filed by the de facto complainants. In the plaint in C.S.No.923 of 2002, only Rajendran was shown as defendant and the plaint averments do not say that Kandeepan and Manimegalai were in league with Rajendran to cheat them. Of course, in paragraph No.12 of the plaint, the de facto complainants have stated that they have initiated criminal proceedings against Rajendran (defendant) for having cheated them in the Egmore Magistrate Court. There is no reference at all to Kandeepan (A2) and Manimegalai (A3) in the plaint.

6. For the first time, the de facto complainants have contrived a story in their complaint that Rajendran's wife Manimegalai and his brother Kandeepan were also present when Rs.25,00,000/- was given by them and that they had taken the money with the intention of cheating. Rajendran had never disputed the liability, as could be seen from the agreement dated 23.01.2001, where he has unequivocally undertaken to pay Rs.24,00,000/- with interest and the suit in C.S.No.923 of 2002 was filed based on the said agreement. In such view of the matter, this Court is of the opinion that the prosecution of the petitioners herein in C.C.No.3946 of 2007 is an abuse of process of law, inasmuch as a criminal colour has been given to a pure civil transaction.

In the result, these Criminal Original Petitions are allowed and the proceedings in C.C.No.3946 of 2007 qua Kandeepan (A2) and Manimegalai (A3) is hereby quashed. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police
Central Crime Branch
Egmore, Chennai
2. The Additional Metropolitan Magistrate
Egmore
3. The Public Prosecutor
High Court, Madras

+2cc to Mr.A.Thiyagarajan, Advocate, S.R.No.34836

+1cc to Mrs.P.V.Rajeswari, Advocate, S.R.No.34985

CRL.O.P.No.4241 of 2017

AND

CRL.O.P.No.26464 of 2019

SVI (CO)
CS/01/12/2020

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