

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.Nos.31608 & 31543 of 2019
and
Crl.M.P.Nos.17310 & 17294 of 2019

Indhumathi ...Petitioner in both the petitions/Accused
Vs

1.The State rep. by Sub Inspector of Police,
City Crime Branch,
Salem. ...1st respondent in both the Petitions.

2.A.R.Karthick ...2nd Respondent in
Crl.O.P.No.31608 of 2019/Defacto Complainant

2.G.Henry Charles ...2nd respondent in
Crl.O.P.No.31543 of 2019/Defacto Complainant

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of Criminal Procedure Code praying to call for the entire records pursuant to the F.I.R.Nos.18 & 19 of 2019 on the file of the 1st respondent police and quash the same by allowing these petitions.

For Petitioner : No appearance.

For Respondents: Mr.S.Karthikeyan,
Additional Public Prosecutor for R1.

R2 - No appearance
in both the petitions.

COMMON ORDER
(through Video Conference)

These Criminal Original Petitions have been filed to quash the First Information Reports registered in Crime Nos.18 & 19 of 2019 on the file of the first respondent police as illegal.

2.In spite of repeated adjournments, even after showing the name of the petitioner in the cause list, neither the petitioner nor her Counsel have appeared before this Court. Heard

Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent police.

3.The case of the petitioner is that the defacto complainants in both the cases had given false complaints and made allegations against the petitioner without any basis. The story put forth by the defacto complainants in both the cases is a cooked up story and the petitioner is not connected with the offence during the relevant point of time. Accordingly, the registered First Information Reports against the petitioner in Cr.Nos.18 & 19 of 2019 by the respondent police is nothing but abuse of process of law.

4.Now coming to the averments found in the petitions mentioned First Information Reports, it is seen that during the time of occurrence, the petitioner viz., Indhumathi and her husband viz., Manivannan approached the defacto complainants and made false promise that if an amount is invested in their company, the same will get doubled and hence, upon the representation made by the petitioner and others, the defacto complainants viz., Karthick and Henry Charles who are arrayed as second respondent in the above petitions respectively and their friends had deposited various amounts in the accounts of the petitioner.

5.In this regard, the learned Additional Public Prosecutor appearing for the first respondent police submitted that subsequent investigation made in the First Information Reports in Cr.Nos.18 & 19 of 2019 revealed the fact that totally an amount of Rs.2,98,00,000/- has been received by the petitioner during the relevant point of time from 73 persons and as of now, the same has not been repaid to the respective parties.

6.Therefore, the said submissions found in the First Information Reports constitute prima facie case for the offence under Section 420 of Indian Penal Code. During the time of occurrence, the petitioner and others induced the defacto complainants by making false promise with dishonest intention and collected huge money and have not repaid the same.

7.No doubt, the said averments found in the First Information Reports, clearly constitute prima facie case for the offence under Section 420 of Indian Penal Code and to find out the truth, the same needs elaborate investigation. At this juncture, it is relevant to see the Judgment of the Hon'ble Apex Court in CrI.A.No.255 of 2019 in the case of "Sau.Kamal Shivaji Pokarnekar -vs- The State of Maharashtra & Ors." wherein it has been held as follows:

"9....A perusal of the complaint discloses that prima facie, offences that are alleged against the

respondents. The correctness or otherwise of the said allegations has to be decided only in the trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."

8. Applying the ratio laid down in the above referred Judgment, herein also, as already observed, since the averments found in the First Information Reports constitute prima facie case for the offence under Section 420 of Indian Penal Code, it is not necessary to invoke the provisions under Section 482 of Criminal Procedure Code.

9. Accordingly, these Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Sub Inspector of Police,
City Crime Branch,
Salem.

2. The Public Prosecutor,
High Court, Madras 104.

CrI.O.P.Nos.31608 & 31543 of 2019
and
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SRA (CO)
SP (21/01/2021)