



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. (MD)No.5157 of 2020

and

Crl.M.P. (MD)No.2963 of 2020

1.Thasneem ... Petitioner/2nd Accused

Vs.

1.The Sub Inspector of Police,
CCB Police Station,
Madurai District. ... 1st Respondent/Complainant

2.Sivakumar ...2nd Respondent/Defacto Complainant

PRAYER : Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the proceedings in Crime No.43 of 2019 on the file of the first respondent police and quash the same against this petitioner.

For Petitioner : Mr.K.P.Narayanakumar

For R1 : Mr.A.Robinson
Government Advocate (Crl. Side)

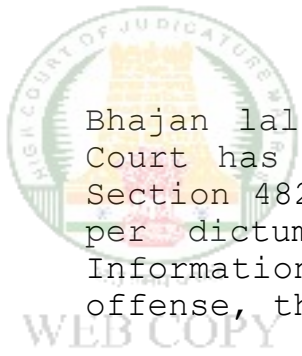
For R2 : Mr.G.Anto Prince

ORDER

On a complaint lodged by Sivakumar, the respondent police have registered a case in Crime No.43 of 2019 for the offences under Sections 406 and 420 of IPC against Syed Asarudeen Al and his sister Thasneem. For quashing which Thasneem is before this Court.

2.Heard Mr.K.P.Narayanakumar, the learned counsel for the petitioner and the learned Government Advocate (Crl.side).

3.Before going into the facts disclosed in the First Information Report, it may be necessary to look into the judgement of the Hon'ble Supreme Court in the case of State of Haryana Vs



Bhajan Lal reported in 1992 Supp.(1) SCC 335, wherein the Supreme Court has given certain guidelines for exercising of powers under Section 482 of Cr.P.C., for quashing a First Information Report. As per dictum, if there are prima facie materials in the First Information Report which discloses the commission of the alleged offense, this Court cannot quash the same.

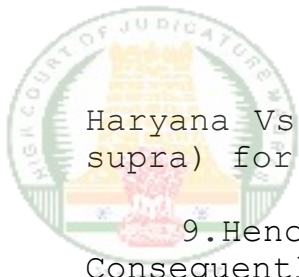
4.It is a case of the defacto complainant that he is into the business of man power recruitment in India. The defacto complainant came into contact with Syed Asarudeen-A1. Syed Asarudeen-A1 was in Canada during the year 2016. A1 told the defacto complainant that there are several vacancies in various big companies in Canada and asked the defacto complainant to collect moneys at the rate of Rs.50,000/- (Rupees Fifty Thousand only) from the aspirants and deposit the amounts so collected in Axis Bank, Trichy on the promise that he would send the necessary work permit. Believing the representation of A1, the defacto complainant collected moneys from various persons and was innocently deposited the same in the account of A1.

5.It is further alleged in the First Information Report that A1 introduced his sister Thasneem to the defacto complainant and ask the defacto complainant to deposit moneys into her account also and accordingly, the defacto complainant deposited moneys into the Axis Bank account of Thasneem on various dates. The total amount of moneys that was deposited into the accounts of A1 and A2 is to the tune of Rs.1,99,54,000/- (Rupees one Crore Ninety Nine Lakhs and Fifty Four thousand only). But no work permit whatsoever was sent by A1. When the persons who had given the moneys started pressurizing, the defacto complainant borrowed moneys from his friend and sold some of his properties and settled about 42 persons.

6.Mr.K.P.Narayanakumar, learned counsel for the petitioner contended that Thasneem is a pardanashin lady and her only sin was having permitted her brother to use her bank account.

7.Contrarily, the learned Government Advocate submitted that there has been active transaction of moneys between A1 and A2 and that A2 is not as innocent as projected by her.

8.This Court has considered the rival submissions. The fact remains that investigation is at a very early stage. That apart, the First Information Report discloses the number of the Axis Bank account of Thasneem in which the defacto complainant had deposited moneys collected from job aspirants. Whether Thasneem did not have the necessary *mens rea* or not, is the question of fact which cannot be decided by this Court in a petition under Section 482 of Cr.P.C. Only during the course of investigation, such facts will come to light. In such view of the matter, the facts obtaining in this case does not pass muster the law laid down by the Hon'ble Supreme Court in the judgement of the Hon'ble Supreme Court in the State of



Haryana Vs Bhajan lal reported in 1992 Supp.(1) SCC 335, (mentioned supra) for quashing the First Information Report.

9.Hence this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition stands closed.

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Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Sub Inspector of Police,
CCB Police Station,
Madurai District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.K.P.NARAYANA KUMAR, Advocate (SR-12960[F] dated 24/03/2020)

+1 CC to Mr.G.ANTO PRINCE, Advocate (SR-12969[F] dated 24/03/2020)

CrI.O.P. (MD)No.5157 of 2020
24.03.2020

VB (19.06.2020) 3P 5C