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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.09.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Cr1.OP.No.18324/2015 & MP.No.1/2015

[Video Conferencing]

1.D.Selvaraj

2.S.Amutha

...Petitioners / Accused 1 & 2

Versus

1.State rep.by

The Sub Inspector of Police

Central Crime Branch, EDF-I

Team II, Vepery, Chennai 600 007.

...1st Respondent / Complainant

2.G.N.Vignesh

...2nd Respondent / Defacto Complainant

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and quash the FIR in Crime No.299/2014 on the file of the 1st respondent.

For Petitioner	:	Mr.K.Chandrasekaran
For R1	:	Mr.E.Raj Thilak
		Additional Public Prosecutor
For R2	:	Mr.R.Gopinath for
		Mc GAN Law Firm

ORDER

- (1) Heard Mr.K.Chandrasekaran, learned counsel for the petitioner ; Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the 1st respondent and Mr.R.Gopinath, learned counsel appearing for the 2nd respondent/defacto complainant.



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(2) Even before proceeding with examining the merits of the case as stated by the petitioners, it must be mentioned that in the Status Report filed today by the Investigating Officer, it had been stated that the 2nd petitioner/A2 is absconding. I wonder how the present petition seeking to quash the FIR can be maintained by the 2nd petitioner/A2 when she had taken a conscious decision to abscond from the process of investigation. That in itself is a ground to dismiss the present petition.

(3) Quite apart from that, in the Status Report, it had been stated that a complaint had been received from the 2nd respondent herein/defacto complainant that the father of the complainant wanted to purchase a property and he had approached the present petitioners herein and had also given an advance amount to the tune of Rs.1.05 Crores, which comprised of cheque amount of Rs.75 lakhs and balance in cash. It was also stated that the petitioners herein had agreed to redeem the property and had promised to register the same in the name of the father of the complainant. But however, the 2nd respondent herein/defacto complainant realised that the property had been sold to somebody else in March 2012. Out of the advance received, a sum of Rs.45 Lakhs had been returned in May 2013. Claiming that the father of the 2nd respondent herein/defacto complainant had been cheated, a complaint had been lodged based on which, the 1st respondent had registered FIR in Cr.No.299/2014 for the offences under Sections 406 and 420 IPC. The present petition has been filed seeking to quash the said FIR.

(4) Guidelines to interfere during the course of investigation had been very clearly laid down by the Hon'ble Supreme Court of India in Neeharika Infrastructure Private Limited Vs. State of Maharashtra reported in 2021 SCC Online 315, wherein the Hon'ble Supreme Court had given very clear directions that the High Court should not scuttle any investigation even before it had commenced. It had also been stated that interference by the Court should not be as a matter of routine, but resorted to only in a very rare cases.



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- (5) In the present case, there is an allegation that advance amount had been paid and substantial amount had been paid by cheque and the entire amount had not been returned back. Property had been however, sold to some other person.
- (6) The learned counsel for the petitioners stated that the advance amount had been paid and there are documents to show that the amount had been returned. However, those documents should have been produced before the Investigating Officer. The decision taken to abscond by the 2nd petitioner/A2 cannot be appreciated by this Court. Any person mentioned as accused should participate in the investigation whenever notice to appear is issued by the Investigating Officer. In the Status Report, it is also mentioned that investigation has been completed and draft charge sheet is ready for filing before the learned IX Metropolitan Magistrate, at Saidapet.
- (7) Let the investigation proceed further in the manner known to law. The petitioners herein may approach the Court concerned and take up any defences if they feel so. But, again the fact that the 2nd petitioner/A2 has been absconding during the period of investigation, would hang over the said 2nd petitioner/A2.
- (8) In the result, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VII)

// True Copy //

Sub Assistant Registrar

AP

To

1. The Sub Inspector of Police
Central Crime Branch, EDF-I
Team II, Vepery, Chennai 600 007.



2.The Public Prosecutor
High Court, Madras.

+1cc to M/s.K.Chandrasekaran, Advocate SR.No.49258

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RSI(CO)

RVM(05/10/2021)