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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.15530 OF 2021

1.N.Dhanashree

2.S.Balasubramani

... Petitioners/Accused 1 & 2

Vs.

1. The State Rep. by the Sub Inspector of Police,
C-4, Rathinapuri Police Station,
Coimbatore.

... 1st Respondent/Complainant

2. M.Joseph Rajadurai

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records of the First Information Report in Crime No.1176 of 2020 on the file of the respondent and quash the same.

For Petitioners : Mr.M.Dharmarajan

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

ORDER

This Criminal Original Petition is filed to call for the records of the First Information Report in Crime No.1176 of 2020 on the file of the respondent and quash the same.

2.The petitioners, who are A1 and A2 in Crime No.1176 of 2020 for the offence under Sections 406 and 420 IPC have filed the above said quash petition.



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3.The contention of the petitioners is that the first petitioner was running a business in the name of the National Brokings. The first petitioner was introduced by a common friend to the defacto complainant/second respondent. The first petitioner is doing the stock investment business and if any one invested in their company they would get back twice the amount of the investment within 100 days and she submitted that the said amount deposited would be invested in the stock trading, thereafter the amount would be repaid. The defacto complainant has deposited the amount from his Bank Account to the second petitioner's bank account, other than that the second petitioner has not played any role in this case. The defacto complainant has deposited a sum of Rs.2,21,650/- to the second petitioner's bank account, for that the first petitioner has paid only Rs.97,900/- alone from 01.03.2020 to 26.03.2020 to the defacto complainant. Due to COVID - 19 pandemic situation, the petitioners were unable to repay the amount to the depositors. The petitioners cannot be blamed for the prevailing COVID-19 situation. Hence the ingredients of Section 406 and 420 of IPC will not arise as alleged by the respondent police and they have not committed any offence as alleged by the respondent police and no criminal misappropriation is made out and they prayed for quashing of the First Information Report in Crime No.1176 of 2020.

4.The learned Government Advocate [Crl. Side] submitted that the petitioners accept the receipt of Rs.2,21,650/- and promised that within 100 days the money would get doubled and failed to do so. In this case they have only paid a sum of Rs.97,900/- to the defacto complainant and it is found that like the petitioners several others were cheated and the office has been closed. The petitioners were unable to repay the amount and they were absconded. The second petitioner is none other than the husband of the first petitioner. The first petitioner had promised the defacto complainant that the money would be invested in the share market and they would be repaid the amount doubled within 100 days and now blaming the COVID 19 pandemic situation is only an excuse.

5.Considering the submissions and on perusal of the materials, it is seen that the investigation of this case is almost over, Charge sheet made ready and the same is to be filed within a period of two weeks before the appropriate Court. Further the points raised by the petitioners are factual in nature, which are to be raised during trial and not in a quash petition. In view of the same, this Court is not inclined to entertain this Criminal Original Petition.



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6. Accordingly, this Criminal Original Petition stands dismissed.

Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

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To

1. The Sub Inspector of Police,
C-4, Rathinapuri Police Station,
Coimbatore.
2. The Public Prosecutor,
High Court,
Madras.

Cr1.O.P.No.15530 of 2021

SJ(CO)
RLP(01/10/2021)