



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8686 of 2021
and Crl.M.P.No.5716 of 2021

1.S.A.Mohammed Azmatuallah
2.Majid Najimudeen
3.G.Balaji
4.Meena
5.S.K.Nawaz

... Petitioners

Vs.

State rep. by

1.The Inspector of Police,
S-10 Pallikaranai Police Station,
Chennai.

2.Shaik Abdul Hameed

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.388 of 2021 on the file of the first respondent, and quash the same.

For Petitioners : Mr.R.C.Paul Kanagaraj

For R1 : Mr.A.Damodaran
Government Advocate

For R2 : Mr.C.Infant Dinesh

O R D E R

This Criminal Original Petition is filed to call for the records in Crime No.388 of 2021 on the file of the first respondent, and quash the same.

2.The petitioners are accused in Crime No.388 of 2021 facing trial for offence under Sections 384, 406, 420, 506(i) IPC have filed this quash petition.

3.The contention of the petitioners is that the second respondent lodged a complaint before the first respondent



police and he had earlier filed a complaint before the CCB, Chennai, which was enquired and closed as no case is made out, since the case is civil in nature. Thereafter suppressing the same, the second respondent filed a petition under Section 156 (3) Cr.P.C. before the Judicial Magistrate Court No.II, Alandur, Chennai to take the complaint on file in CrI.M.P.No.236 of 2021, with false allegations levelled in the complaint, no such incidents took place and no offence of misappropriation, cheating or theft was committed by the petitioners.

4.The learned counsel appearing for the second respondent/defacto complainant submitted that the petitioners had cheated the second respondent/defacto complainant to the tune of Rs.23 Crore. Further in the guise of selling the property, caused a loss to the tune of Rs.4 Crore. The petitioners have all joined together and committed the offence. As regards to the earlier complaint, the second respondent/defacto complainant is not aware about the closure of the case. The second respondent/defacto complainant was not called for enquiry. Hence he filed a petition before the Judicial Magistrate Court No.II, Alandur requested to forward his complaint to the first respondent. The learned Judicial Magistrate No.II, Alandur, forwarded the complaint to the first respondent finding cognizable offence is made out as per the complaint. Even before investigation commenced, hence, the petitioners have approached this Court. Therefore, this petition is liable to be dismissed.

5.The learned Additional Public Prosecutor submits that the Crime No.388 of 2021 on the file of the first respondent police has been transferred to the file of the Inspector of Police, CCB, Team-II, Chennai in Crime No.88 of 2021 on 07.09.2021, investigation commenced. Further submitted that 41A Notice served to the petitioners and the petitioners appeared, gave their explanations and the same are to be verified. The explanations given by the petitioners would be considered in its right prospective and investigation is conducted in a proper manner.

6.The learned counsel appearing for the petitioners submit that they may be given liberty to file a quash petition with regard to the quashing of Crime No.88 of 2021 at the appropriate time.

7.Considering the rival submissions and on perusal of the materials, it is seen that the petitioners were called for enquiry by serving 41A notice, they offered their explanations, now the same to be verified. The second respondent/defacto complainant summoned and his statement also recorded, investigation is in progress. In view of the same, this Criminal Original Petition cannot be entertained at this stage



and the same is disposed of.

8.This Criminal Original Petition stands disposed of accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate II, Alandur.

2.The Inspector of Police,
S-10 Pallikaranai Police Station,
Chennai.

3.The Inspector of Police,
CCB, Team-II,
Chennai.

4.The Public Prosecutor,
High Court, Madras.

+1CC to M/s.R.C.Paul kanagaraj, Advocate SR.No.55678

+1CC to M/s.L.Infant Dinesh, Advocate SR.No.55514

Cr1.O.P.No.8686 of 2021
and Cr1.M.P.No.5716 of 2021

AJS (CO)
B.VC (12.11.2021)