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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.14290 of 2021
and
Crl.M.P.No.7801 of 2021

M.Syed Mohammed,
S/o, Mohammed Ismail

...Petitioner

Versus

1. The Inspector of Police,
M-3, Puzhal Police Station,
Chennai.

2. S.David Nirmal Raj
S/o, Sundarakumar

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records FIR in Crime No.469 of 2021 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.B.Gurumurthy
For R1 : Mr.A.Damodaran
Government Advocate, (Criminal Side)

ORDER

This Criminal Original Petition has been filed by the petitioner to to call for the records FIR in Crime No.469 of 2021 on the file of the 1st respondent and quash the same.

2. The gist of the case is that that the defacto complainant and his wife are running the business in the name of Victory Caters. His school day friend Vijaya Baskar had approached the defacto complainant informed that the petitioner and his wife are running an export business in Coimbatore, they are in need of money as a short term loan. On his recommendation, Rs.30 lakhs had been given by the defacto complainant to the petitioner as loan with a promise that within 13 months Rs.35 lakhs would be returned. Thereafter 22 ½ lakhs



has been given and totally 52 ½ lakhs was received as loan. Thereafter for the repayment, the accused has handed over the briefcase and later opening of the brief case, it is found that no such amount was found. Hence the complaint.

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3. The contention of the petitioner is that the alleged occurrence took place in the year 2019 but the complaint was given only on 06.06.2021. There is a delay, for that no explanation has been given. Further the respondent police now state that the case has been altered to offences under sections 418, 420 and 506(i) of IPC and there is no material produced substantiating the same. The defacto complainant in his complaint states that the petitioner and his wife were carrying on the export business. The petitioner's wife is a teacher employed in a Government school without even knowing the background and status of the petitioner and others the defacto complainant has given a false complaint, the respondent police failed to ascertain these aspects and foisted a false case.

4. The learned Government Advocate (Criminal Side) appearing for the official respondent would submit that on receipt of the complaint of the petitioner, the complaint has been transferred from the first respondent to CCB police on the orders of the Commissioner. Now the case has been altered under sections 418, 420 and 506(i) of IPC. He further submitted that in this case, A1 and A3, friend and wife of the petitioner had moved the quash applications in CrI.O.P.Nos.1378 of 2021 and 4082 of 2021 and this Court dismissed both the quash petitions on 10.08.2021 and 12.08.2021 respectively.

5. The issues raised by the petitioner is not consistent with any materials and is contrary to the facts, the materials point to the active role of the petitioner. Investigation just commenced and only on conclusion of the investigation, the contention of the petitioner can be ascertained. This Court has recently dismissed the quash petition of A1 and A3. Further on the specific statement that there are materials available against the petitioner, this Court is not inclined to entertain this petition. Accordingly the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

mfa



To

1. The Inspector of Police,
M-3, Puzhal Police Station,
Chennai.

2. The Public Prosecutor,
High Court,
Madras.

CRL.O.P.No.14290 of 2021
and
Crl.M.P.No.7801 of 2021

PCH(CO)
SP(14/09/2021)