



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 19.04.2021
DELIVERED ON : 21.05.2021
CORAM:

THE HON'BLE MR.JUSTICE G.ILANGO VAN

WEB COPY

Crl.OP(MD)No.5528 of 2021 &
Crl.MP(MD)Nos.3165 & 3166 of 2021

Sudalaimuthu ... Petitioner/Accused No.2

Versus

1.State Represented by,
The Inspector of Police,
District Crime Branch (DCB),
Theni District.
(Crime No.02/2017) ... 1st Respondent/Complainant

2.Sangili ... 2nd Respondent/Defacto/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure (i) To dispense with the personal appearance of the petitioner in CC.No.8 of 2020 before the Judicial Magistrate, Theni pending disposal of the quash petition, (ii) To stay all further proceedings in CC.No.8 of 2020 on the file of Judicial Magistrate, Theni pending disposal of the quash petition and (iii) To call for the records pertaining to the case in CC.No.8 of 2020 on the file of the Judicial Magistrate, Theni and quash the same against the petitioner.

For Petitioner : Mr.P.Subbaraj
For R1 : Mr.R.Srinivasan,
Government Advocate (Crl. Side)
For R2 : Notice not sent

O R D E R

This petition is filed seeking quashment of CC.No.8 of 2020 on the file of the learned Judicial Magistrate, Theni.

2. The defacto complainant is the second respondent herein. He lodged a complaint with the following averments. He is a permanent resident of Andipatti Taluk and one Sudalaimuthu was introduced to him and it is stated that the said Sudalaimuthu is running a Trust and serving poor people. It is further stated that he was willing to run a Trust in the locality of the defacto complainant. He assured that he is receiving several crores as aid from the foreign countries. He told that for the purpose of receiving the amount, the defacto complainant has to deposit some amount. He promised to return the same with additional amount. Believing his words, the defacto complainant paid Rs.4,00,000/- (Rupees Four Lakhs only). Latter, he failed to repay the amount as promised. The defacto complainant came to know that the said Sudalaimuthu cheated several

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persons running to several crores of rupees. When contacted, Sudalaimuthu and Perumal Thevar threatened the defacto complainant with dire consequences. So, with the above allegations, a complaint was registered in Crime No.2 of 2017 under Sections 406, 420 and 506 (i) of IPC on 09.01.2017 by Theni District Crime Branch. Based upon the First Information Report, investigation was undertaken and statement of 23 persons were recorded and at the conclusion of the investigation, final report was filed before the learned Judicial Magistrate, Theni in CC.No.8 of 2020 altering the offences to Sections 406 and 420 of IPC. Seeking quashment of this Charge Sheet, the petitioner who is the second accused before the trial court has filed this petition mainly on the ground that none of the allegations mentioned in the final report are true. No document has been produced by the defacto complainant for the purpose of showing that this petitioner received the amount mentioned in the complaint. Similarly, no document is available to show that other persons also paid the amount.

3. Heard both sides.

4. When the petition was moved for admission, it was heard on merits with the consent of the parties and reserved for orders.

5. As mentioned earlier, the main allegation that has been levelled against this petitioner by the second respondent is that promising to return the deposit amount with additional profit, the petitioner received Rs.4,00,000/- and latter failed to return the amount and profit. During the course of investigation, similarly placed affected persons have given statement before the Investigation Officer that they have also paid huge amount on several days to this petitioner. Witnesses namely Sangili, Radha, Andysamy, Chandrasekar, Jeyaraman, Paraman, Mani, Kamatchiappan, Mathialagan, Surulivel, Selvi, Karupaiah, Murugesan, Deivendharan, Iyyar, Thangasekar and Vanaraj have given statement before the Investigation Officer that believing the words of this petitioner, they deposited various amount on various dates in the account maintained by the petitioner. They have also mentioned the Account No.11269571386 of State Bank of India and Account No.613905500259 of ICICI Bank. Apart from that, they have paid several amounts directly.

6. So, whether the statement of these persons are true or not can be decided only during the course of trial. Now, *prima facie* materials are available to show that this petitioner promising several victims to return the deposit amount with profit failed to return the principal amount and the profit. The contention that the offence under Section 406 of IPC will not be attracted to the facts and circumstances of this case cannot be considered for discussion at this stage. From the statement of the victims, it is seen that huge amounts were deposited in the bank account of this petitioner. ~~Services are provided by the petitioner for quashing the~~

final report. No compelling circumstance has been brought on record. None of the facts mentioned in the petition are worth considering. The offences in complaint are serious in nature. Whether the petitioner committed the offence or not can be decided only at the logical conclusion of the trial. So, the petition filed by this petitioner deserves dismissal and accordingly, dismissed. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Mbi
To

- 1.The Inspector of Police,
District Crime Branch (DCB),
Theni District.
- 2.The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pre-Delivery Order in
Crl.OP(MD)No.5528 of 2021 &
Crl.MP(MD)Nos.3165 & 3166 of 2021

21.05.2021

CN(21.06.2021) 3P 3C