



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.18707 of 2021

S.Mohamed Jaleel

... Petitioner

vs.

1.The Commissioner of Police,
Madurai City, Madurai - 625 002.

2.The Deputy Commissioner of Police,
District Crime Branch, Madurai City,
Madurai.

3.The Inspector of Police,
District Crime Branch, Madurai City,
Madurai.

4.The Assistant Commissioner of Police,
Central Crime Branch- 2 (EDF) I Wing,
Chennai.
(R4 suo motu impleaded as per order
dated 29.11.2021 in Crl.O.P.(MD)No.
18707 of 2021)

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C, to issue direction to the respondents to register the case based on the petitioner's complaint dated 07.07.2021 and investigate into the same.

For Petitioner : Mr.A.Natarajan
Senior Counsel
for Mr.R.Anandhraj

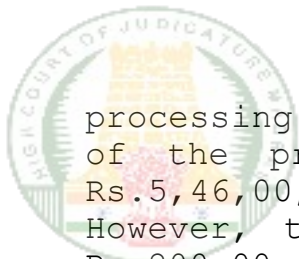
For Respondents : Mr.M.Veeranthiran,
Government Advocate

For Intervenor : Mr.K.Kevin Karan

O R D E R

Heard the learned Senior Counsel appearing for the petitioner, the learned Additional Public Prosecutor for the respondents and the learned counsel appearing for the intervenor.

2.The petitioner is running an educational institution in the name of Sethu Institute of Technology. The petitioner was in need of additional funds for running the institution. He came in contact with the proposed accused and they had assured him that they will be able to infuse a sum of Rs.200.00 crores into the petitioner's account. However, the petitioner was called upon to pay an initial

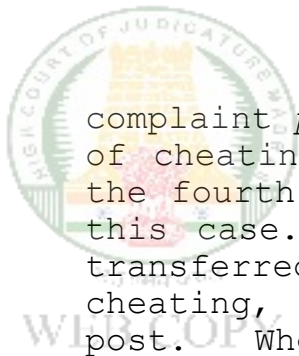


processing fee. According to the petitioner, he believed the words of the proposed accused and had remitted a total of sum of Rs.5,46,00,000/- in the bank account of the proposed accused. However, the proposed accused did not make available the sum of Rs.200.00 crores which was originally assured and cheated the petitioner. The petitioner lodged a complaint dated 07.07.2021 before the Commissioner of Police, Chennai. The petitioner was originally summoned for enquiry. The petitioner appeared before the Sub-Inspector of Police, Central Crime Branch, EDF-1, Veppery, Chennai on 27.07.2021 and furnished the necessary documents. Since the matter did not show any progress, the petitioner filed a petition under Section 156(3) Cr.P.C. before the jurisdictional Court. On receiving notice from the Court concerned, the Inspector of Police, CCB, Chennai filed a counter stating that they had already transferred the papers to CCB, Madurai. Therefore, the petitioner was left with no other option but to move the Inspector of Police, CCB, Madurai. After holding the enquiry, the Inspector of Police, CCB, Madurai took the stand that the cause of action had arisen primarily at Chennai and therefore, CCB, Madurai will not be in a position to act further in the matter. In these circumstances, this Criminal Original Petition came to be filed for directing the CCB, Madurai to register a case based on the petitioner's complaint dated 07.07.2021 and for further conducting investigation thereon.

3.After hearing the learned Senior counsel for the petitioner, I suo motu impleaded the Assistant Commissioner of Police, Central Crime Branch-2, (EDF) I Wing, Chennai as the fourth respondent in this original petition. I called upon the learned Government counsel to obtain instructions. When the matter was taken up for hearing today, the learned Government Advocate submitted that since the money was transferred from the bank account of the petitioner at Kariapatti, it is the District Crime Branch, Virudhunagar that will have to go into the issue.

4.When the learned counsel appearing for the intervenor wanted to make submissions, I made it clear to him that the proposed accused will not be granted any audience at pre-cognizance stage.

5.I carefully considered the rival contentions and went through the materials on record. The petitioner has placed convincing material before this Court indicating transfer of sum of Rs.5,46,00,000/- to the bank account of the proposed accused. The proposed accused are based in Chennai. The petitioner is also having branch office at Chennai. According to the petitioner, the assurances and the false promises were held out only at Chennai. The bank account of the proposed accused are also at Chennai. A perusal of the petitioner's complaint would show that cognizable offence of cheating *prima facie* has been made out. The Hon'ble Supreme Court of India in more than one case held that if the enquiry discloses commission of cognizable offence, FIR must be registered. In this case, it is obvious that a substantial part of the occurrence took place at Chennai and the averments made in the petitioner's



complaint *prima facie* discloses commission of the cognizable offence of cheating. I am also informed that the law officer attached to the fourth respondent opined that FIR will have to be registered in this case. I fail to understand as to why the fourth respondent transferred the papers to CCB, Madurai. In matters relating to cheating, the affected party cannot be made to run from pillar to post. When he moved the police authorities at Chennai, he was directed to approach the police authorities at Madurai, who asked him to go back to Chennai. Now, the police authorities are taking a new stand that the petitioner has to move DCB, Virudhunagar.

6.This conduct of the authorities is not correct. The second respondent is directed to transfer the papers forthwith to the fourth respondent. The fourth respondent is directed to register an FIR based on the petitioner's complaint dated 07.07.2021 and conduct investigation speedily and in accordance with law. This Criminal Original Petition is allowed on these terms.

Sd/-
Assistant Registrar (W)

// True Copy //

/ /2021
Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Commissioner of Police,
Madurai City, Madurai - 625 002.
- 2.The Deputy Commissioner of Police,
District Crime Branch, Madurai City,
Madurai.
- 3.The Inspector of Police,
District Crime Branch, Madurai City,
Madurai.
- 4.The Assistant Commissioner of Police,
Central Crime Branch- 2 (EDF) I Wing,
Chennai.



5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+5 cc to Mr.R.ANANDHARAJ, Advocate, SR.No.37691

+1 cc to Mr.K.KEVINKARAN, Advocate, SR.No.37813

Crl.O.P. (MD)No.18707 of 2021

Date:07.12.2021

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