



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

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THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.NO.1046 OF 2021

AND

CRL.M.P.NO.650 OF 2021

1.G.Salman
2.P.Goush Basha

... Petitioners/
Accused

Vs.

1. The State represented by
The Inspector of Police,
Central Crime Branch-I, (Team - XXIII),
Greater Chennai City,
O/o Commissioner of Police,
Vepery, Chennai.
(Crime No.446 of 2018)

... 1st Respondent/Complainant

2. S.Mohan Kumar

... 2nd Respondent/
Defacto Complainant

Prayer:

This Criminal Original Petition had been filed under Section 482 of Criminal Procedure Code to call for the records relating to the case in Crime No.446 of 2018 on the file of the first respondent and quash the same.

For petitioners : Mr.T.Arockia Dass
For Respondent No.1 : Mr.L.Baskaran
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition had been filed to quash the proceedings in Crime No.446 of 2018 on the file of the first respondent.



2. The learned Counsel for the Petitioners had invited the attention of this Court to the contents of the First Information Report. It is the contention of the Petitioners that the first Petitioner and the second Respondent had entered into a Memorandum of Understanding. Based on the Memorandum of Understanding, the first Petitioner is alleged to have paid the amount by way of a Demand Draft drawn on Dharmapuri District Central Co-operative Bank, Krishnagiri District for Rs.35,00,100/- and Rs.25,00,000/- in two instalments. Subsequent to this, as per clause A(vi) of the Memorandum of Understanding, the second Respondent ought to have withdrawn the complaint but not withdrawn the case. Therefore, the Petitioners seek to quash the First Information Report based on the Memorandum of Understanding.

3. The learned Government Advocate (Crl. Side) vehemently objected to the line of arguments of the Petitioners stating that the ingredients of the offences are made out as per the complaint. The first Respondent had proceeded with the investigation and he is ready to lay final report of the investigation. He had sought the opinion of the legal advisor. At that stage, the pendency of this Criminal Original Petition was shown as the reason for not to file the final report. Therefore, he is waiting for the orders of this Court. It is the submission of the learned Government Advocate (Crl. Side) that on investigation after collecting sufficient materials, the Investigation Officer is having his discretion either to refer the Charge Sheet or to file the final report against the Accused before the Court of the learned Judicial Magistrate, Krishnagiri District regarding the alleged offences. The learned Government Advocate (Crl. Side) vehemently objects to quash the First Information Report.

4. The line of arguments of the learned Counsel for the Petitioners that the first Petitioner having entered into the Memorandum of Understanding with the second Respondent can not at all be accepted by any Court of law, since he is alleged to have indulged in cheating. If his intention is to settle the matter, he can settle before the Court concerned. He cannot force the Complainant to withdraw the case. It amounts to threatening the Complainant by use of extraordinary Constitutional methods popularly called as Katta Panchayat which has been deprecated by the earlier decision of this Court in the case of Rajendran and Others -vs- The State reported in MANU/TN/0353/2004. The arguments of the learned Counsel for the Petitioners placing reliance on Memorandum of Understanding entered into to lay the Petitioner with the second Respondent cannot be appreciated by this Court.

In the light of the submission of the learned Government



Advocate (Crl. Side), this Criminal Original Petition is dismissed with a direction to the Prosecution to proceed with the investigation and lay a final report before the Court concerned. If at all the Petitioners have any defence, they can raise it before the Court concerned. On receipt of summons, they can appear before the Court and adjudicate their rights. This is not a fit case for quashing the First Information Report at this Stage. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Inspector of Police,
Central Crime Branch-I, (Team - XXIII),
Greater Chennai City,
O/o Commissioner of Police,
Vepery, Chennai.
(Crime No.446 of 2018)
- 2 The Public Prosecutor,
High Court, Madras-104.

+lcc to Mr.Dass & Viswa Associates, Advocate, S.R.No.34625

Crl.O.P.No.1046 of 2021
and
Crl.M.P.650 of 2021

SSD(CO)
PM/07/07/2022