



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.3170 of 2022

1. M.Sathishkumar
2. K.Balakrishnan
3. R.Saravanan
4. A.Mohankumar
5. P.Raja ... Petitioners/Accused 1, 2, 4 to 6

Vs.

1. The Inspector of Police,
Neelankarai Police Station,
Neelankarai,
Kanchipuram District. ...Respondent/Complainant
2. K.Salapathi ... Respondent/Defacto Complainant

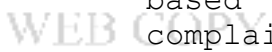
PRAYER: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to quash the First Information Report vide Crime No.729 of 2021 on the file of the Inspector of Police, Neelankarai Police Station, Kanchipuram District as illegal.

For Petitioners : Mr.S.B.Viswanathan
For R1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor
For R2 : Mr.V.Jayachandran

O R D E R

The Criminal Original Petition has been filed seeking to quash the First Information Report vide Crime No.729 of 2021 on the file of the Inspector of Police, Neelankarai Police Station, Kanchipuram District.

2. A case in Crime No.729 of 2021 was registered on 10.10.2021 for offences under Sections 406, 420, 465, 468, 471



3. Learned counsel for the petitioners would submit that based on the complaint given by the defacto complainant/K.Salapathi, a case has been registered for offences under Section 406, 420, 465, 468, 471 and 120-B of IPC. He would further submit that the matter has been compromised between the petitioners and the defacto complainant and he would pray that the matter may be quashed based on the terms of compromise. He would also submit that no public interest is involved in this matter.

5. Learned Additional Public Prosecutor would submit that it is not a case of private dispute between two parties. It is the case, where the accused have not only cheated the defacto complainant, they have also cheated several thousand people. During the course of investigation, it came to light that the petitioners/accused have cheated about 18,000 persons throughout the state of Tamil Nadu under the guise of sharing the money they received out of illegal sale of iridium products. He would further submit that the investigation is in the initial stage and the respondent police also understands that there has been unholy nexus between the defacto complainant and the accused and thereby, they are trying to cover up a larger scam by entering into compromise. He would also submit that the respondent are also taking steps to transfer the case either to CCB or to EOW, since, it has a state wide ramification and he would oppose for quashing the proceedings.

7. At this juncture, learned Additional Public Prosecutor would submit that it is not so as if stated by the defacto complainant. Based on specific information, a search was conducted in a resort and the accused were arrested and during the time of arrest, several documents, printers and incriminating articles were recovered from the accused. He would also reiterate that it is a larger scam, where several victims have been cheated to the tune of more than Rupees Eighteen Crores. Now the parties, in order to cover up the larger scam,



had compromised with the petitioners. He would further submit that larger public interest is involved in this case and the case is in the initial stage of investigation.

8. Heard the learned counsel and perused the materials including the CD file.

9. Coming to the facts of this case, as per the complainant, it is the case of the defacto complainant that he got acquainted to the accused through one Saravanan and the accused had induced him saying that they were running a company in the name of M/s. John Megnon and that they were dealing with a business of Rice Pulling and Iridium and that if a person deposits Rs.10,000/-, he will be repaid an amount of Rupees One Crore after 6 months.

10. It is the further case of the defacto complainant that believing the accused, he had received Rs.10,000/- each from 136 persons and had deposited an amount of Rs.13,60,000/- with the accused and that they have cheated him. It is also the further case of the defacto complainant that the accused had taken a house on rent at ECR Road and they were pacifying the other depositors asking for time. However, now it is submitted that the defacto complainant has compromised with the accused and they have come before this Court seeking to quash the FIR based on compromise.

11. The case of the prosecution is that based on the complaint, a search was conducted at the ECR office of the accused and several seals, incriminating materials and several vehicles were recovered from the accused and the investigation is still pending. It is the case of the prosecution that it is a larger scam, where 18,000 victims have been cheated by the accused to the tune of Rupees Eighteen Crores and that in order to cover up the larger scam, the petitioners have entered into an unholy agreement with the defacto complainant and they are trying to close the case in the initial stage itself by way of a compromise quash.

12. In Parbatbhai Aahir v. State of Gujarat [AIR 2017 SC 4843], the Supreme Court held as follows:-

"(1) Section 482 CrPC preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inherent in the High Court.

(2) The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between



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the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 CrPC. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(3) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

(4) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

(5) the decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulate.

(6) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

(7) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power



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to quash is concerned.

(8) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

(9) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(10) There is yet an exception to the principle set out in Propositions (8) and (9) above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

13. In the judgment referred above, the Hon'ble Apex Court, in clause (10) had held that economic offences involving the financial and economic well-being of the State having implications which lie beyond the domain of a mere dispute between private disputants are exceptions to clause (8) and (9). The Apex Court has also held that the High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour, which is not private in nature.

14. It is a case of a large scam of financial and economic fraud and it is also submitted by the prosecution that the defacto complainant is one of the victims and there are other 18,000 other victims in this case and the total amount involved is more than Rupees Eighteen Crores.

15. In view of the above, that the case has been registered in respect of a larger scam, where public interest is involved, this Court is not inclined to quash the FIR in Crime No. 729 of 2021. Accordingly, this criminal original petition stands dismissed.



16. During the course of hearing, this Court had called for the CD file and perused the same. Though, it is stated by the petitioner that it is a large scam, in the opinion of this Court, the investigation has not been properly conducted. The Deputy Commissioner of Police, Adyar Range is directed to look into the affairs and take steps to transfer the case for further investigation either by CCB, Chennai or by EOW, Chennai and the investigation shall be completed within a period of nine months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Neelankarai Police Station,
Neelankarai,
Kanchipuram District.
2. The Deputy Commissioner of Police,
Adyar Range, Chennai.
3. The Inspector of Police,
Economic Offence Wing,
Chennai.
4. The Inspector of Police,
Central Crime Branch,
Chennai.
5. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.3170 of 2022

SSM(CO)
GMY(12/05/2022)