



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

CRL.O.P.NO.24018 OF 2016

AND

CRL.M.P.NO.11433 OF 2016

S.Ranganathan

... Petitioner/Accused

Versus

1. The Inspector of Police,
New Town Police Station,
Cuddalore.

2. Subhashree Sasikala Devi

(R2 impleaded as per order in
Crl.M.P.No.12822 of 2021 in
Crl.O.P.No.24018 of 2016
dated 10.01.2022)

... Respondents/Complainant

PRAYER:-

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the case in C.C.No.120 of 2016 pending on the file of Judicial Magistrate-II, Cuddalore and quash the same.

For Petitioner : Mr.S.Senthil Nathan

For Respondent : Mr.R.Murthi
Government Advocate
(Criminal Side)

ORDER

This Criminal Original Petition has been filed to call for the records relating to the case in C.C.No.120 of 2016, on the file of the Judicial Magistrate-II, Cuddalore and quash the same.



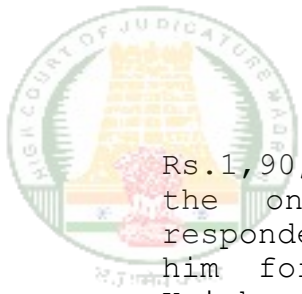
2. The facts relating to filing the case in C.C.No.120 of 2016, in brief are as follows:

(i) The second respondent/defacto complainant gave complaint against the petitioner on 21.12.2015 before the respondent police. On the basis of this complaint, FIR in crime No.692 of 2015 was registered under Sections 406 & 420 IPC. It is alleged in the complaint that the petitioner approached her for contesting a money suit on behalf of his father-in-law Krishnamurthy. She contested a suit in O.S.No.130 of 2011 for Krishnamurthy and got a decree for a sum of Rs.3,88,922/-. As per the decree, the defendant paid Rs.10,000/- per month and it got accumulated to Rs.1,90,000/- for 19 months. She filed a cheque application and got the amount of Rs.1,90,000/- and deposited in her savings bank account. She withdrew the money on 20.06.2015 and informed the petitioner. Petitioner came to her office and stated that his father-in-law is not well, he is not able to come and requested her to handover the money. When she told him that she will give the money only if her father-in-law comes to receive the money, he told her that he is working as Sub-Inspector of Police and whether she had no confidence on him. This had happened at 11:30 on 22.06.2015. Again, he came on the same day at 6 p.m. and he demanded money claiming that the money is required to meet the medical expenses of his father-in-law. Therefore, she handed over Rs.1,90,000/- to him. One Karuppaiah was present at the time of handing over the money. Later she did not get any communication from the petitioner till 27.07.2015. On 27.07.2015, petitioner's father-in-law and her sister-in-law came to her office and informed her that he is not in talking terms with the petitioner. Therefore, this complaint was given for recovery of money from the petitioner.

(ii) After the completion of investigation, the respondent police filed a final report under Sections 406 & 420 IPC. Challenging the said final report, this quash petition has been filed.

3. The learned counsel for the petitioner submitted that petitioner had not received any money from the second respondent and a false case has been foisted against the petitioner. He further submitted that the petitioner's father-in-law gave a complaint against the second respondent before the Bar Council of Tamil Nadu and Puducherry. As a counter blast to the complaint, this complaint was given. Therefore, he prays for quashing the proceedings against the petitioner in C.C.No.120 of 2016,

4. The learned counsel appearing for the respondent, especially the second respondent, submitted that a sum of



Rs.1,90,000/- was had handed over to the petitioner since he was the one who introduced his father-in-law to the second respondent and that he requested that the money to be paid to him for meeting the medical expenses of his father-in-law Krishnamurthy. After receiving the money, petitioner had not given the money to his father-in-law. That is the reason why the criminal complaint was given. The receipt of Rs.1,90,000/- from the second respondent by the petitioner was witnessed by one Karuppaiah and he also gave statement in this regard. There are enough materials to show that the petitioner has committed the offences alleged against him and for framing of charges under Sections 406 & 420 IPC. Therefore, he prays for dismissal of this petition.

5. The learned Government Advocate appearing for the first respondent also supports and endorses the view of the learned counsel for the second respondent.

6. Considered the rival submissions and perused all the records.

7. The crux of the matter is that the second respondent filed a suit on behalf of the petitioner's father-in-law Krishnamurthy for recovery of money. The suit was decreed in favour of his father-in-law Krishnamurthy and a sum of Rs.1,90,000/- was deposited in the court. The second respondent filed a cheque application and received the amount and claimed that she paid this amount to the petitioner. She paid this amount to the petitioner, mainly on the ground that he is the one, who introduced Krishnamurthy to her and the said Krishnamurthy is his father-in-law. Only when it was represented that the said Krishnamurthy was not well, she handed over the money to the petitioner. However, except the statement of Karuppaiah and the other witnesses, namely, Samoondeswari and Saranya, there is no other evidence produced in support of the claim of the second respondent that she paid Rs.1,90,000/- to the petitioner. In the absence of any receipt from the petitioner for the receipt of Rs. 1,90,000/-, the statement given by the witnesses would be of no use. As an Advocate, the second respondent ought to have received a proper receipt from the petitioner for the payment of Rs.1,90,000/-, but that was not done. Therefore, this Court is of the considered view that there is no legally acceptable evidence available in this case in support of the case of the second respondent that she had paid Rs. 1,90,000/- to the petitioner. Criminal case against the petitioner has no legal basis. Requiring the petitioner to face the trial is a clear abuse of process of law. Accordingly, the case in C.C.No.120 of 2016, on the file of the Judicial Magistrate-II, Cuddalore is quashed against the petitioner.



8. In fine, this Criminal Original Petition is allowed and the case in C.C.No. 120 of 2016, pending on the file of the Judicial Magistrate-II, Cuddalore is quashed. Consequently, connected miscellaneous petition is also closed.

WEB COPY

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sli/dhk

To

1. The Judicial Magistrate-II,
Cuddalore.
2. The Inspector of Police,
New Town Police Station,
Cuddalore.
3. The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.S.Manivasagam, Advocate, S.R.No.14027
+1cc to Mr.S.Senthil Nathan, Advocate, S.R.No.13237

CRL.O.P.NO.24018 OF 2016

NMI (CO)
PBS/24/03/2022