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Crl.O.P.No.3247 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

CORAM

THE HON'BLE MS. JUSTICE R.N.MANJULA

Crl.O.P.No.3247 of 2021
and
Crl.MP.Nos.1841 & 1843 of 2021

Sheeba

... Petitioner /2nd Accused

Vs.

1.The State,
rep. by the Inspector of Police,
T-1, Ambattur Police Station,
Chennai-600 012.

... 1st Respondent/ Complainant

2.John Kennady

... 2nd Respondent/ Defacto Complainant

Prayer:- This Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to call for the records pertaining to C.C.No.125 of 2020 pending on the
file of the Judicial Magistrate Court at Ambatur and quash the same.

For Petitioner : M.Rakhi for M/S.K.Suthan

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor for R1
: No appearance for R2



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ORDER

This Criminal Original Petition has been filed to call for the records pertaining to C.C.No.125 of 2020 pending on the file of the Judicial Magistrate Court at Ambatur and quash the same.

2. The case of the prosecution is that the petitioner and the defacto complainant were known to each other as they were attending same Church. Since the defacto complainant was looking for lands for purchase, the petitioner approached the defacto complainant by stating that she was working under the first accused who is doing real estate business in the name and style of 'Rallees foundation' and she could help him to find suitable lands. During May 2012 the defacto complainant approached the first accused and purchased 20 plots measuring 1/2 ground each for a sum of Rs.6,00,000/-. He also intended to purchase another 9 plots for a sum of Rs.3,40,000/- at Remi Nagar, Arakkonam. When the defacto complainant visited the plots after two months, the 3rd party has claimed that those plots belonged to him. When this was informed to the first accused, he also confirmed his lack of title over the said plots, but promised to allot some other plots. As promised the first accused did not give any alternate plots. Hence the defacto complainant has preferred a complaint. On the basis of the above complaint a case in Crime No.1885 of 2013 dated 13.12.2013 was



registered by the first respondent police for the offences under Sections 406 and 420 of the Indian Penal Code, 1860. In the said case, the petitioner has also been impleaded as second respondent.

3. Heard the submission made by the learned counsel for the petitioner and the learned Additional Public Prosecutor for the first respondent and perused the materials available on record.

4. The learned counsel for the petitioner submitted that the petitioner who is the second accused is just an employee of the first accused in Rallees Foundation, she has not received the money from the defacto complainant and hence the case against the petitioner should be quashed. Even according to the defacto complainant the petitioner /second accused was working under the first accused who is doing real estate business. The petitioner /second accused as a staff of the first accused would have promoted the businesses of the first accused and introduced customers to him. But the money transactions were done by the defacto complainant with the first accused only.

5. The learned Additional Public Prosecutor appearing for the respondent police submitted that the petitioner /second accused had introduced the defacto



complainant to the first accused and she only influenced the defacto complainant to part away his money to the first accused.

6. On perusal of the complaint given by the second respondent/ defacto complainant it is seen that he had his dealing with the first accused and to whom he had given money for purchase of various plots. The allegations of the defacto complainant is that the second accused also knew well that the plots did not belong to him and he intentionally influenced the defacto complainant to purchase more plots for consideration. It is also seen that on an earlier occasion the very same complainant has purchased a few plots in some other location from the first accused. Since the defacto complainant introduced by the second accused to the first accused he would have believed to proceed to purchase the plots but that does not imply that the second accused also had an intention to cheat the defacto complainant subsequently for purchasing some other plots.

7.The defacto complainant before buying more plots from the first accused ought to have verified its title and thereafter paid money. Whatever may be the case, since the business was run by the first accused, the first accused alone is responsible for whatever dealings he had with his customers. It is not alleged that the petitioner/second accused was also having any partnership with



the first accused and that she shared the profits with the first accused. No allegations or materials available on record to show that the petitioner/second accused had also derived any unlawful enrichment from the money paid by the second respondent/defacto complainant.

8.Except the fact that the petitioner/second accused was working as a staff under the first accused, no other overt act has been alleged against the petitioner/second accused.

9.In the compliant, it is alleged by the defacto complainant that when he went to the first accused to demand the money the first accused and second accused threatened him with dire consequences. The allegations with regard to intimidation or threat is just an one line allegation and it did not have any other supporting materials. Even if it is assumed that the defacto complainant got threatened, the petitioner/second accused cannot have any interest or intention to threaten the defacto complainant, because the profit of the business was not being enjoyed by her along with her boss, who is the first accused. Since the petitioner / second petitioner was known to the defacto complainant, she just introduced the defacto complainant to her boss. There are no prima facie materials available on record to make out any cognizable case against the



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R.N.MANJULA, J.

RS/jrs

petitioner/ second accused. Hence, I feel the proceedings against the second accused alone should be quashed.

In the result, this Criminal Original Petition is **allowed** and the proceedings in C.C.No.125 of 2020 pending on the file of the Judicial Magistrate Court, Ambatur against the petitioner/ second accused alone is quashed. Consequently, connected miscellaneous petitions are also closed.

10.10.2022

Speaking/Non-speaking
Index : Yes/No

jrs

To

1. The Judicial Magistrate, Ambatur
2. The Inspector of Police,
T-1, Ambattur Police Station,
Chennai-600 012.
3. The Public Prosecutor,
High Court of Madras.

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and
Crl.MP.Nos.1841 & 1843 of 2021