



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 13.07.2022

Delivered On : 06.10.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.10896 of 2021
and
Crl.M.P.Nos.6460 & 6461 of 2021

R.Megala

... Petitioner

-VS-

1. State By
The Inspector of Police,
District Crime Branch,
Tiruvallur.
(Crime No.21 of 2018)

2. Sarguna Karthikeyan

... Respondents

Prayer: This Criminal Original Petition had been filed under Article 227 of the Constitution of India, to call for the entire records connected with the impugned charge sheet in C.C.No.49 of 2019 on the file of the Court of the learned Judicial Magistrate, Tiruttani and quash the same.

For Petitioner : Mr.R.Krishnakumar

For Respondents : Mr.L.Baskaran,
Government Advocate (Crl.side), for R1
Mr.R.Sagadevan for R2.



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ORDER

This petition is filed by the Petitioner who is arrayed as accused in Crime No.21 of 2018.

2. It is the contention of the learned Counsel for the Petitioner that the De-facto Complainant had paid Rs.11,00,000/- (Rupees Eleven Lakhs only) to the husband of the Petitioner for securing the post of Lab Assistant for her sons Sathish Kumar and Suresh Kumar. Actually, it was one Velmurugan who was working as Deputy Director, Nehru Yuva Kendra Sangathan at Murugan Nagar 1st Street, Mettupalayam Road, Goundanpalayam, Coimbatore under the Government of India, Ministry of Youth Affairs and Sports, who received the amount. He was working as President of Parent-Teacher Association. After receiving the amount, the said Velmurugan did not respond positively, nor did he get the posts. In the meanwhile, the Complainant's husband Karthikeyan died. The said Velmurugan was removed from Parent-Teacher Association. The Petitioner was called on 13.04.2018 to the police station for enquiry. Only after reaching the Police Station, the Petitioner was issued summons as though



she was issued summons on 10.04.2002. When the Petitioner went to the Police Station, the police started torturing her. Unable to bear the torture, the Petitioner had executed a written undertaking. The Petitioner is no way liable for the said amount which the said Velmurugan had received.

3. It is also the submission of the learned Counsel for the Petitioner that the Petitioner also preferred a complaint before the Police on 20.04.2017. The Superintendent of Police, Coimbatore, recovered the amount from Velmurugan. Subsequently, the Petitioner filed RTI application on 21.05.2018. From the reply only she came to know that the complainant Suresh Kumar had withdrawn the complaint on the undertaking given by the Petitioner. Therefore, the Petitioner approached the Court for seeking Anticipatory Bail in Crl.O.P.No.15994 of 2015 apprehending arrest. Based on the submission of the learned Government Advocate (Crl.side) that the enquiry was concluded and closed in the complaint, the Anticipatory Bail petition was also closed. Subsequently, another complaint was received from the mother of Suresh Kumar who had, in her complaint, stated that her husband Karthikeyan has given a sum of Rs.11,00,000/- (Rupees Eleven Lakhs only) to the Petitioner and sought appropriate action against the



Petitioner, based on which an F.I.R in Crime No.21 of 2018 was registered by the first Respondent Police under Section 420 of I.P.C. Again the Petitioner was called for enquiry and three blank cheques were obtained from her. Subsequently, the Petitioner filed Petition for Anticipatory Bail in CrI.O.P.No.24533 of 2018 apprehending arrest. This Court, by an order dated 22.11.2018, referred the matter for Mediation.

4. In the Mediation, the Second Respondent pressurized the Petitioner to settle the entire sum of Rs.11,00,000/- (Rupees Eleven Lakhs only). Therefore, the subject matter of the Mediation was not settled and by order dated 14.12.2018, the Anticipatory Bail petition was dismissed. Subsequently, Sathish Kumar another son of late Karthikeyan and the Second Respondent issued the legal notice dated 10.11.2018 under Section 138 of Negotiable Instruments Act, calling upon the Petitioner to make payment for Rs.4,00,000/- (Rupees Four Lakhs only). Narrating the actual facts, the Petitioner sent a reply dated 01.12.2018, calling upon the said Sathish Kumar to return the cheques obtained from him. Thereafter, the Petitioner preferred a complaint dated 08.12.2018 before the Inspector of Police, Thudiyalur Police Station, for which, C.S.R.No.310 of 2018 was



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assigned. Again the Petitioner filed a petition seeking Anticipatory Bail in CrI.O.P.No.1759 of 2019 before this Court. By order dated 24.01.2019, this Court granted Anticipatory Bail to the Petitioner. In the meantime, on 11.04.2019, the Petitioner filed a petition under Section 156(3) of Cr.P.C. before the Court of the learned Judicial Magistrate-I, Coimbatore, praying to forward a complaint to the Inspector of Police, Thudiyalur Police Station for the registration of F.I.R, based on the complaint dated 08.12.2018. The Petitioner also made a representation to the Superintendent of Police, Coimbatore on 26.07.2019 seeking appropriate action based on her complaint dated 08.12.2018. Pursuant to the FIR in Crime No.21 of 2018, the first Respondent Police laid a charge sheet before the Court of the learned Judicial Magistrate, Tiruttani against the Petitioner. The same was taken on file in C.C.No.49 of 2019. The registration of F.I.R. in Crime No.21 of 2018, based on the complaint of the second Respondent and filing of the charge sheet in C.C.No.14 of 2019 by the first respondent is nothing but an abuse of the process of the Court. According to the Petitioner, he is no way connected with the amount alleged to have been given to one Velmurugan by the father of the said Suresh Kumar and Sathish Kumar. The Second Respondent had failed to show any proof while



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preferring the complaint before the first Respondent that the Petitioner had received money from her or her husband. The Petitioner is a respectable person, a law abiding citizen, Headmistress of Government School in Thirupachur and a physically challenged person. Therefore, she seeks to quash the charge sheet pending on the file of the learned Judicial Magistrate, Tiruttani.

5. The learned Counsel for the second Respondent submits that the Court can appreciate the conduct of the Petitioner who approached this Court twice by filing Criminal Original Petitions. The Petitioner herein had wantonly delayed the trial in C.C.No.49 of 2019. The Husband of the Second Respondent had parted with his retirement benefits and by selling jewels of the second Respondent had handed over Rs.11,00,000/- (Rupees Eleven Lakhs only) to the Petitioner. When the Anticipatory Bail petition was heard by the learned Single Judge of this Court in Crl.O.P.No.1759 of 2019, based on the undertaking given by the Petitioner, to deposit the title deed of the property standing in her daughter's name before the Court, Anticipatory Bail was granted. Also she was directed to repay a sum of Rs.4,00,000/- (Rupees Four Lakhs only). Based on the submission of the



learned Counsel for the Petitioner, the learned Single Judge had granted Anticipatory Bail, but after securing Anticipatory Bail, the Petitioner had not complied with the condition. Therefore, the pending C.C. cannot be quashed.

6. The learned Counsel for the De-facto Complainant/Second Respondent vehemently objected to quash the Charge Sheet/Complaint stating that the Petitioner had not approached the Court with clean hands. She had adopted dilatory tactics, thereby delayed the trial in the pending C.C.No.49 of 2019.

7. The learned Government Advocate (Crl. Side) also vehemently objected to quash the charge sheet stating that the Petitioner has cheated the De-facto Complainant by receiving money from her.

8. The learned Government Advocate (Crl. Side) submitted that the trial in C.C.No.49 of 2019 has commenced and P.W-1-Sarguna Karthikeyan wife of Karthikeyan, P.W-2-Suresh Kumar, son of Karthikeyan, P.W-3-Sathish Kumar, son of Karthikeyan, P.W-4-Anitha, wife of Suresh Kumar, P.W-5-Uma Kalaivanan, wife of Kalaivanan, P.W-6- Nirmala, wife of



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Udhayakumar, were examined by the learned Judicial Magistrate, Tiruttani as Prosecution witnesses and the trial is pending.

9. As per the reported ruling of the Hon'ble Supreme Court in the case of *State of Haryana -vs- Bhajan Lal* reported in *1992 Suppl.(1) SCC 335* guidelines had been issued by the Hon'ble Supreme Court that the extraordinary powers available to the High Courts under Section 482 of Cr.P.C shall not be exercised leniently. It shall be exercised sparingly and one of the guidelines was that the cases pending before the Criminal Court shall not be quashed by exercising power under 482 Cr.P.C.

10. Since the father of Suresh Kumar and Sathish Kumar by name Karthikeyan was a colleague of the Petitioner herein, believing the representation, parted with his retirement benefits and also by selling jewels of his wife, second Respondent herein and paid Rs.11,00,000/- (Rupees Eleven Lakhs only) to the Petitioner.

11. On consideration of the submission of the learned Counsel for the



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Petitioner, the objection of the learned Government Advocate (Crl. Side) for the first Respondent and also the learned Counsel for the second Respondent, the conduct of the Petitioner is to delay the trial after obtaining Anticipatory Bail on the undertaking that she will settle the dues in due course and will handover the documents of the property before the learned Judicial Magistrate as a condition for granting Anticipatory Bail. However, after executing sureties and bond, the Petitioner failed to act as per her undertaking given before the Court. When the case was referred for Mediation earlier, she did not co-operate for the Mediation.

12. As per the guidelines issued by the Hon'ble Supreme Court in the reported decision in the case of *State of Haryana -vs- Bhajan Lal* reported in *1992 Suppl.(1) SCC 335* criminal cases shall not be interfered by the High Courts by exercising powers under Section 482 of Cr.P.C. The trial Courts should be permitted to conclude the trial to its logical end.

13. If what had been contended by the learned Counsel for the Petitioner is to be accepted, it is to be treated as a valuable defence available before the trial Court. This Court exercising extraordinary power under



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Section 482 Cr.P.C shall not consider either the valuable defence or materials other than the F.I.R and statements recorded u/s 161 Cr.P.C and the charge sheet to quash the charge sheet or quash the F.I.R. The subject matter raised by the Petitioner is not covered under Section 482 Cr.P.C. under the guidelines issued by the Hon'ble Supreme Court. Whether the Petitioner received the amount and whether the Petitioner is liable in any way to repay the amount, when the complaint is against Velmurugan, are subject matter, to be considered during trial in C.C.No.49 of 2019.

14. It is law that in a criminal trial, the Accused is presumed to be innocent. It is for the Prosecution to prove the charges against the Accused beyond reasonable doubts by adducing evidence before the learned trial Judge.

15. It is true that the Petitioner had to cross examine the Prosecution witnesses, based on the grounds raised in this Criminal Original Petition filed under Section 482 Cr.P.C. In short, the Petitioner has to prove her innocence before the trial Court.

In the result, **this Criminal Original Petition is dismissed.** Consequently,



connected miscellaneous petitions are closed.

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The learned Judicial Magistrate, Tiruttani, is directed to dispose of the case in C.C.No.49 of 2019 within a reasonable period of three months from the date of receipt of a copy of this order. If the Accused does not cooperate, the learned Judicial Magistrate, Tiruttani, shall issue Non-Bailable Warrant to the Accused. If the Accused is produced on executing the Non-Bailable Warrant, she shall be detained in Prison till the disposal of the case.

06.10.2022

Index : Yes / No
Internet: Yes / No
Speaking Order / Non-Speaking Order
Neutral Citation : Yes / No
KMM

To

1. The Judicial Magistrate,
Tiruttani.
2. The Inspector of Police,
District Crime Branch,
Tiruvallur.

SATHI KUMAR SUKUMARA KURUP, J.

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Order in
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