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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.16920 OF 2018

AND

CRL.M.P.NO.8737 OF 2018

1. Sivakumar Manickam

2. Yokesk Kumar

... Petitioners

Versus

1. The State Rep. by its
The Inspector of Police,
K8, Arumbakkam Police Station,
Chennai.
(FIR 250 of 2018)

2. S.Srimathangi

... Respondents

PRAYER:-

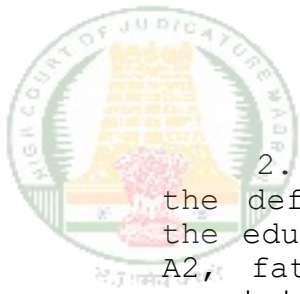
Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records comprised in FIR.No.250 of 2018 pending on the file of 1st respondent and to quash the same.

For Petitioners : Mr.Harikrishnan
For Mr.Sharathchandran

For Respondents : Mr.R.Kishore Kumar
For R1
Government Advocate (Crl. side)

O R D E R

This Criminal Original Petition has been filed to call for the records and quash the proceedings in FIR.No.250 of 2018 pending on the file of 1st respondent for the offence under Sections 406, 420 of IPC.



2. The crux of the allegation in the F.I.R indicates that the defacto complainant has advanced a sum of \$10,000 towards the education expenses for A1 while he was studying in USA, and A2, father of A1 has also agreed to repay the amount after receiving his retirement benefits from TNEB office. But the same has not been repaid by A2 to the defacto complainant. Hence, the complaint has been lodged against the petitioners.

3. Learned counsel for the petitioners submitted that except the allegation that the amount has not been repaid, there is no criminal offence made out against the petitioners. It is his contention that the defacto complainant has demanded for repayment and the entire amount has been repaid. The same has also been informed to the Investigation Officer.

4. Learned Government Advocate (Crl.Side) has not disputed the above fact and submitted that the amount payable to the defacto complainant has been paid and the defacto complainant has also given a petition to the Investigation Officer to withdraw the complaint.

5. In such view of the matter, for mere non-payment of money, offence under Section 420 would not be attracted. Therefore, this Court is of the view that merely some default payment of money will not constitute any criminal offence. Therefore, in this case, the defacto complainant himself has received the amount and has given a letter to the Investigating Agency. Therefore, continuing the F.I.R. as against the petitioners will not serve any purpose. Accordingly, the F.I.R.No.250 of 2018 pending on the file of 1st respondent is hereby quashed and the Criminal Original Petition is allowed. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

msv

To

1. The Inspector of Police,
K8, Arumbakkam Police Station,
Chennai.



2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Govind Chandrasekhar, Advocate, S.R.No.4122

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GMR(CO)
PBS/11/02/2022