



Crl.O.P.No.14850 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2022

CORAM

THE HON'BLE Dr.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.14850 of 2019

and

Crl.M.P.No.7275 and of 2019

1. G.V.Adhimoolam

2. A.Vijayaraj

3. Sharmila Devi

4. R.M.Rajamanickam

5. R.Jagadeeswaran

... Petitioners/Accused 1 to 5

-Vs.-

1. The Inspector of Police,
District Crime Branch,
Namakkal, Namakkal District.

...1st Respondent /Complainant

2. M.Senthil Kumar

...2nd respondent /Defacto
Complainant

Prayer :- Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the records and quash the crime No.21 of 2019 dated 04.06.2019 pending on the file of the 1st respondent herein.



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For Petitioner : Mr.Ami.V.Kataria
For Respondents : Mr.N.S.Suganthan
Government Advocate for R1
R2 – No appearance

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate.

2. This is a case where the petitioners who are shown as accused 1 to 5 in the criminal complaint registered in Crime No.21 of 2019 on the file of Inspector of Police, District Crime Branch, Namakkal seek quashing of the complaint on the ground the complaint is an abuse of process of law and the very reading of FIR will disclose that no cognizable offence made out and the same has been lodged with animosity and malicious intention.

3. The learned counsel for the petitioner would submit that with an identical allegation the 2nd petitioner herein gave a complaint to



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the Inspector of Police, Pallipalayam on 22.05.2019 and the same was registered as C.S.R.No.119 of 2019. The Pallipalayam Police after causing summons to the parties under Section 160 of Cr.PC to appear on 04.06.2019 had not proceeded further. However, the Senthil Kumar who is the accused in the complaint given by the 2nd petitioner, with malafied intention has set the criminal law in motion by giving a complaint on the same day when he was called to appear on the complaint of 2nd petitioner Vijaya raj. This complaint has been registered under Section 420, 342, 294b) 506(1) of IPC alleging that a sum of Rs.1 Crore 50 lakhs was transferred to the account of the Vakkrakalliamman Spinning Mills on belief and promise that the defacto complainant / 2nd respondent will be inducted as a Director in the said company. However, instead of inducting in the company, the money was transferred to Adimoolam the 1st accused and when the defacto complainant sought for induction in the company, they demanded another 20 lakhs and after inviting him to deliver the money on 22.05.2019, he was threatened with dire consequences.

4. The learned counsel for the petitioner relying upon the



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judgement of the Hon'ble Supreme Court in **[Indian Oil Corporation Vs. NEPC India Ltd and others]** reported in **2006 6 SCC 736** would submit that dispute arising out of breach of contract the remedy available to the person aggrieved is a civil proceedings. No criminal complaint will be maintainable. The provisions of Section 482 Cr.PC can be exercised if criminal process is initiated to put undue pressure on the parties to settle civil disputes.

5. The learned Public Prosecutor submitted that the complaint has made out a specific allegation of cheating of more than 1 crore 50 lakhs on the promise that the defacto complainant will be inducted in the company run by one Rajamanickam. It is specifically alleged in the complaint that the money transferred to the account of the Company been illegally transferred to the account of Adhimoolam on the same day and to the defacto complainant neither paid back the money nor inducted in the company. It is a matter for investigation and in view of the stay granted by this Court, no further investigation could be done on the complaint given by the 2nd respondent as well as the 2nd petitioner, which is pending in CSR.



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6. This Court considering the submissions made by the learned counsel for the petitioner and the judgement rendered by the Hon'ble Supreme Court qua the complaint given by the 2nd respondent as well as the 2nd petitioner which is pending in CSR finds that there has been money transaction between the parties and to recover the money efforts were taken but in vain. Hence, the complaint.

7. It is specifically stated in the complaint that 1 crores 50 lakhs was transferred through bank in favour of Vakkrakalliamman Spinning Mills in which the petitioners have interest and also there is an allegation that the money transferred was sanctioned on the same day and went to the account of Adhimoolam/ the 1st petitioner / accused. Thus, the ingredient of deceit at the inception is prima facie made out, for the respondent police to investigate. Therefore, the complaint cannot be quashed on a premise that the matter is of civil in nature applying the principles laid out in *Indian Oil Corporation case*. Hence, this petition is dismissed.



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8. The respondent police shall summon the accused persons and investigate the matter in accordance with law and file the final report if fit for trial. While carrying on the investigation, it is open to the petitioners herein to produce documents and evidence to substantiate their case. The respondent police is directed to complete the investigation within a period of four months from today. Consequently, the connected miscellaneous petition is closed.

27.09.2022

Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

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To

1.The Inspector of Police,
District Crime Branch,
Namakkal, Namakkal District.

2.The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN.J.,

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