



CRL.O.P.No.22217 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2022

CORAM:

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

Crl.O.P.No.22217 of 2019

and

Crl.MP.No.11520 of 2019

A.Sekar

.. Petitioners/Accused 1

Versus

1.State rep by

The Sub Inspector of Police,
Economic Offence Wing,
Villupuram District,
Tamilnadu 605 602.

... 1st Respondents / complainant

2.Selvi

... 2nd Respondent /*Defacto* complainant.

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records of the 1st respondent / complainant connected with the FIR No.3/2019 dated 11.04.2019 and quash the same.

For Petitioner : Mr.Venkatesh Mahadevan

For Respondent-1 : Mr.A.Gopinath
Government Advocate

For Respondent-2 : No appearance

ORDER



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This Criminal original petition has been filed to quash the FIR in Crime No.3 of 2019 on the file of the first respondent police.

2. The petitioner is arrayed as the first accused in Cr.No.3/2019 on the file of the first respondent police under Sections 406 & 420 IPC and under Sections 4(1) & 76(1) of the Chit Funds Act, 1982.

3. The case of the prosecution is that the son of this petitioner by name Balu @ Ramachandiran arrayed as A-2 and who is no more now, had conducted a Deepavali chit by name 'Haridharani Deepavali Chit Scheme' and for which, the *defacto* complainant and others had contributed and paid sums in twelve months installments. The deceased/ second accused had assured the subscribers to give back the subscribed money with good returns. The chit subscriptions used to be paid to the deceased /Balu @ Ramachandiran (A2) and his wife and they would make entries in the subscriptions card. Since the second accused did not return the money, the subscribers went and asked the petitioner, petitioner's son and petitioner's son's wife assured them to return it on 25.10.2018; but on 23.10.2018 itself, the said Balu @ Ramachandiran/A2 committed suicide. On the complaint given by the *defacto* complainant in this regard, on 11.04.2019 the First Information Report has been registered for the



said offence.

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4.The learned counsel for the petitioner submitted that the first petitioner is a senior citizen and father of the deceased second accused; even during his life time, his son /second accused and his wife who is the third accused were living separately by constituting their own family and the first petitioner has got no connection with them. Despite his son Balu @ Ramachandiran died at that time of registering the complaint itself, his son is shown as second accused and his son's wife / third accused is wrongly described as the wife of the first accused; the criminal complaint has been given by implicating the petitioner just to harass him and recover the money to be paid by the deceased / second accused by the petitioner himself; since there is no material to foist a criminal case are fasten a criminal liability on the petitioner; the case against the petitioner should be quashed.

5.The learned Government Advocate(Crl.Side) appearing for the first respondent police submitted that the *defacto* complainant has stated that all the three accused have assured to return the money on 25.10.2018, but in the mean while, the second accused had committed suicide and hence, the other accused are liable to pay the chit amount; the *defacto* complainant is a street



vendor who had subscribed her hard earned and there are similar such ten subscribers who had also invested their money for the chit; the *defacto* complainant has alleged that the petitioner, petitioner's son and his daughter in law have joined together and conducted a chit by name 'Haridharani Deepavali Chit Scheme' and collected subscriptions from her and similarly other persons.

6. Though notice was served on the second respondent/ *defacto* complainant, the second respondent did not make her appearance before this Court.

7. The learned counsel for the petitioner submitted that the petitioner's son and his wife were living separately and they have no connection with the deceased son, who had conducted the chit by himself. The chit cards would show that it contain similar type of signatures. The collections have been done by the second accused and he had signed the cards. The petitioner's signature is not seen in the subscription cards issued to the subscribers. The petitioner has been living separately and his son was living as a separate family with his wife. Hence no criminal liability can be fastened as against this petitioner.



8. The complaint seems to have been given by implicating the petitioner also. Obviously it is for enhancing the possibility of recovery by giving pressures on this petitioner. Though it is pitiable that the street vendors have deposited their hard earned money with the deceased/2nd accused the petitioner who is no way connected to the entire transactions cannot be made as an accused.

9. In this regard, it is relevant to refer the judgment of the Hon'ble Supreme Court held in ***STATE OF HARYANA VS. BHAJANLAL [1992 SUPP (1) SCC 335]***.

"The following categories can be stated by way of illustration wherein the extra-ordinary power under [Article 226](#) or the inherent powers under [Section 482](#) of the Code of Criminal Procedure can be exercised by the High Court either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do



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CRL.O.P.No.22217 of 2019

not prima facie constitute any offence or make out a case against the accused.

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under [Section 156\(1\)](#) of the Code except under an order of a Magistrate within the purview of [Section 155\(2\)](#) of the Code.

(3) where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code.

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) where there is an express legal bar engrafted in any of the provisions [of the Code](#) or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in [the Code](#) or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.



CRL.O.P.No.22217 of 2019

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

10. The principles laid down in the said case is squarely applicable to the present case, where there is no material available against the petitioner. In view of the above stated reasons, I feel it is an appropriate case where this Court should invoke its powers under Section 482 Cr.P.C., to quash the proceedings against these petitioner.

In the result, the Criminal Original Petition is **allowed** and the proceedings of the FIR in Crime No.3 of 2019 on the file of the first respondent police is quashed as against this petitioner alone. Consequently, connected miscellaneous petition is closed.

13.12.2022

Index: Yes/No
jrs

To:
1. The Sub Inspector of Police,
Economic Offence Wing,
Villupuram District,
Tamilnadu 605 602.



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2.The Public Prosecutor,
High Court, Madras.

R.N.MANJULA, J.,

jrs

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and
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