



WEB COPY



CrI.O.P.No.23173 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2022

CORAM:

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

CrI.O.P.No.23173 of 2021
and CrI.M.P. No.12692 of 2021

M.Abdul Salam

... Petitioner

Vs.

1. State rep. by
The Inspector of Police,
Central Crime Branch Team-I,
Chennai.
Cr. No.170 of 2021.

2. F.Benjamin Arokyaraj

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C.,to call for records in Cr. No.170 of 2021 on the file of the respondent police Inspector of Police, Central Crime Branch Team-I, Chennai and quash the same.

For Petitioner : Mr. V.S.Senthilkumar

For Respondent-1 : Mr.A.Damodaran, APP

2 : Mr. C.Ravichandran



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ORDER

This Criminal Original Petition has been filed to call for records in Cr. No.170 of 2021 on the file of the first respondent police and quash the same.

2. The petitioner is the third accused in this case. The second respondent / *de facto* complainant has preferred a complaint by stating that the first accused who is running a Railway canteen on contract had persuaded him to pay a sum of Rs.2,20,00,000/- by assuring that he would get a railway contract for the second respondent also to run a food / catering stall in any one of the railway station. Thereafter, the first accused neither secured a contract as assured nor returned the money.

3. The learned counsel for the petitioner submitted that the petitioner who is the son of the first accused was a minor at the time of occurrence and even according to the complaint there is no specific averment as against the petitioner; since no *prima facie* material has been produced to rope the petitioner in this case, FIR as against the petitioner should be quashed.



4. The fact that petitioner is the son of the first accused is not denied.

The allegation of the *de facto* complainant is that the wife and the son of the first petitioner were also assisting the first accused in receiving money on the false assurance by the first accused. Except the one line allegation that wife and son of the petitioner also involved in the act of cheating, committed by the first accused, no other details has been given as to the specific overt act committed by the petitioner. Just because the petitioner is the son of A1, it cannot be presumed that he had also assisted in getting the money from the *de facto* complainant. Even though the materials make out a case against the first accused, the same is not sufficient enough to make out a case against his son who is the petitioner herein. When there is no specific overt act committed by the petitioner it is unnecessary to implead the petitioner as one of the accused in this case.

5. The petitioner is said to be a student of B.Com (A&F), in Sri Krishna Arts and Science College. Without any proper reasons, the petitioner is impleaded as an accused and that will affect his future. Taking into consideration of the lack of materials available as against the petitioner, I feel it is appropriate to quash the FIR as against the petitioner.



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6. In view of the above reasons, this Criminal Original Petition is allowed and the FIR in Cr. No.170 of 2021 is quashed as against the petitioner / third accused only. Consequently, connected miscellaneous petition is closed.

Index: Yes/No
Speaking / Non Speaking Order
bkn

26.09.2022

To

1. The Inspector of Police,
Central Crime Branch Team-I,
Chennai.
2. The Public Prosecutor,
High Court of Madras.



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R.N.MANJULA, J.

bkn

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