



CrI.O.P.No.24668 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRL.O.P.No.24668 of 2022

and

CRL.MP.No.15519 of 2022

S. Gokulanathan @ Gokul

...Petitioner/A4

/vs/

1. The Inspector of Police,
Economic Offence Wing,
Coimbatore.

2. Saravanan. K.

... Respondents

Prayer : The Criminal Original Petition has been filed under Section 482

Cr.P.C., to call for the records in connection with FIR in Cr.No.5 of 2020

on the file of the 1st respondent and quash the same.

For Petitioner

... Mr.T.Gnana Banu

For Respondents

... Mr.S.Santhosh for R1

Government Advocate (CrI.Side)

ORDER

This Criminal Original Petition has been filed to call for records and
quash the FIR in Crime No.5 of 2020 for the alleged offences under



Crl.O.P.No.24668 of 2022

Sections 120-B, 409, 420 of IPC and 5 of Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997 pending on the file of the 1st respondent police.

2. The learned counsel for the petitioner has submitted that the petitioner is arrayed as fourth accused in this case and he is one of the victims cheated by the remaining accused persons. He himself deposited the amount in the alleged fraudulent D Max Capitals Pvt Ltd., Company. Wantonly the petitioner has been implicated in this case by the defacto complainant and he had no role at all in this case in cheating or the fraud committed by the remaining accused. Therefore, the case needs to be quashed. He further contended that he also filed a case against the remaining accused. Under such circumstances, this being a false case, which has been registered in delay and the delay also, has not been explained. Therefore, he pleads to quash the same.

3. When the matter is taken up for hearing, learned Government Advocate (Crl.Side) has submitted that prima facie the defacto complainant



Crl.O.P.No.24668 of 2022

has stated in the complaint that this petitioner has introduced the remaining partners with regard to the deposits in D Max Capitals Pvt Ltd., Company for getting high interest. Apart from this, during investigation, it is revealed that these accused not only cheated to the tune of Rs.19,08,060/- but it amounts more than Rs.20 Crores from various persons. Hence, it needs to be investigated to find out the truth. Therefore, at the initial stage of investigation, it is not proper to quash the FIR and prayed to dismiss the case.

4. I have considered the submission of the learned counsel appearing for the petitioner and the learned Government Advocate (criminal side) appearing for the first respondent police.

5. In the case on hand, a perusal of records, reveals that the fact that the petitioner is the fourth accused in the case registered in Crime No.5 of 2020 for the alleged offences under Sections 120-B, 409, 420 of IPC and 5 of Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997. Further, the records revealed that the defacto



Crl.O.P.No.24668 of 2022

complainant in the complaint has stated that on 02.01.2019 when he approached D Max Capitals Pvt Ltd., Company, the petitioner S. Gokulanathan @ Gokul has introduced the other accused namely Senthilkumar and his wife Lalitha and informed that they are all partners and running the business and they will give 15% interest for the deposits. Believing their words and on the instigation of the petitioner and other accused, the defacto complainant deposited a sum of Rs.19,08,060/- in 66 instalments. For that amount, they have repaid Rs.11,58,709/- from 02.01.2019 to 16.09.20219 but they failed to repay Rs.7,49,351/-. Hence, the defacto complainant has lodged a complaint.

6. On perusal of impugned F.I.R, it is seen that the allegation therein would *prima facie* make out a case for investigation by the police authority. Therefore, it does not meet the parameters laid down by the Supreme Court in *State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604)*, *M/s Neeharika Infrastructure Pvt. Ltd., Vs. State of Maharashtra and others (2021 SCC online 315) & PRATIBHA RANI Vs.SURAJ KUMAR & ANR (1985 Crl.L.J.817)*, the matter has to be investigated to find out the truth.



Crl.O.P.No.24668 of 2022

Therefore, it is inappropriate to quash the FIR and close the investigation at the beginning stage. Therefore, I find no merit and investigation is to be conducted to find out the truth.

7. In the result, this Criminal Original Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes/No
gv

12.10.2022

To

1. The Inspector of Police,
J-12, Kanathur Police Station CCB Team,
Chennai
2. The Public Prosecutor,
High Court, Madras.



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CrI.O.P.No.24668 of 2022

V.SIVAGNANAM ,J.

gv

CRL.O.P.No.24668 of 2022
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CRL.MP.No.15519 of 2022

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