



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2022

CORAM:

THE HONOURABLE MRS. JUSTICE **R.N.MANJULA**

Crl.O.P.No.28107 of 2019
and Crl.M.P.No.15073 of 2019

S.Pradeep

... Petitioner

/Vs/

1.State by

The Inspector of Police,
Attur Town Police Station,
Attur, Salem District.
(Crime No.84 of 2019)

... 1st Respondent/ Complainant

2.Vetrivel
complainant

... 2nd Respondent/ *De facto*

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the record in Crime No.84 of 2019 on the file of the Inspector of Police, Attur Town Police Station, Attur, Salem District and to quash the same.

For Petitioner : Mr.B.Thiyagarajan
for Mr.S.M.Nandidavan

For Respondents : Mr.A.Damodaran for R1
Additional Public Prosecutor

ORDER

This petition has been filed challenging the F.I.R. in Crime No.84 of 2019 on the file of the Inspector of Police, Attur Town Police Station,



Attur, Salem District .

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2.The petitioner has been arrayed as accused No.1 in Crime No.84 of 2019. The case of the prosecution is that on 20.06.2019 at about 10.00 a.m. four unknown persons in a car bearing Registration No. TN 33 AL 3477 came on Sannasi Mount river path; another unknown person was standing outside the car gave them a sum of Rs.2,00,000/- (Rupees Two Lakhs only); a physically challenged person was also one of the persons inside the car and he received the amount by telling that he would double the amount within 10 days and pay it back, the *de facto* complainant who is a fruit-vendor was there adjacent to the place of occurrence and he overheard the conversation, so he gave a complaint to the 1st respondent police and on which a case has been registered for the offences under Sections 417 and 420 I.P.C.

3.The learned counsel for the petitioner submitted that registering the F.I.R. on the complaint given by the *de facto* complainant itself is in violation of law and is unsustainable; the F.I.R. has been registered without any proper investigation; the complaint does not have any *locus standi* to file against the petitioner; in view of Section 39 Cr.P.C., no one



the petitioner; petitioner's own earnings; no one had also given any complainant stating that the money is missing or misused by the petitioner's; hence, the F.I.R. is liable to be quashed.

4.The Learned counsel for the petitioner further submitted that the case has been registered on the complaint given by the 2nd respondent/ *de facto* complainant for the offences under Sections 417 and 420 I.P.C. On the basis of the allegations as stated supra.

5.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the 1st respondent police and perused the materials available on record.

6.The attention of this Court is drawn to the Section 39 Cr.P.C. which lists out certain offences about which a person is under an obligation to give information to the nearest Magistrate or police. So far as the offences under Sections 417 and 420 I.P.C. are concerned, only the aggrieved should give the information. The *de facto* complainant is not a person who was aggrieved by losing his money in the alleged occurrence.



7.He had stated that he witnessed some one exchanging money with someone else. As pointed out by the learned counsel appearing for the petitioner, the records does not disclose any complaint given by any other person stating that he was cheated or he was made to sustain loss of Rs.2,00,000/- (Rupees Two Lakhs only). The complaint has been given in contravention to the Sec. 39 Cr.P.C. Since the F.I.R. itself has been registered without following the appropriate provisions of law, it is liable to be quashed.

7.Accordingly, this Criminal Original Petition is **allowed** and the proceedings in F.I.R. in Crime No.84 of 2019 against the petitioner/ A1 is quashed. Consequently, the connected miscellaneous petition is closed.

06.12.2022

Index: Yes/no
Internet: Yes/No
gba

To
The Inspector of Police,
Attur Town Police Station,
Attur, Salem District.



(Crime No.84 of 2019)

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R.N.MANJULA, J.

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CrI.O.P.No.28107 of 2019



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