



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.728 of 2022

and

Crl.M.P(MD)No.544 of 2022

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Anandhan

... Petitioner/Accused No.2

Vs.

1.The State represented by,
The Inspector of Police,
Economic Offence Wing,
Dindigul,
Dindigul District.

(In Crime No.2 of 2021) ... 1st Respondent/Complainant

2.Vasagar

... 2nd Respondent/
Defacto Complainant

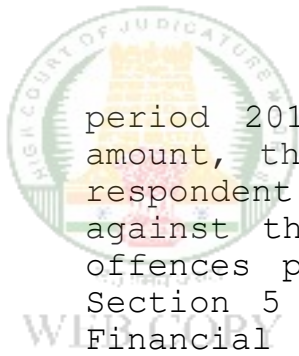
Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the FIR in Crime No.2 of 2021 on the file of the first respondent police and quash the same as illegal insofar as the petitioner is concerned.

For Petitioner	: Mr.Ajmal Khan Senior Counsel for M/s.Ajmal Associates
For R - 1	: Mr.B.Thanga Aravind Government Advocate (Crl. Side)
For R - 2	: Ms.Madhana Govindan

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No.2 of 2021 on the file of the first respondent.

2. The case of the prosecution is that in the year 2012, the petitioner and other shareholders had visited the defacto complainant's house and invited him to participate in the meeting which was held at Theni District. On the pretext of the same, the defacto complainant went to the aforesaid meeting. At the meeting, the petitioner and other shareholders introduced various schemes to the public and inducted the public to invest money in the aforesaid schemes for obtaining more interest and profits within a short span. On account of inspiration of the said meeting and attractive speech made by the petitioner and other share holders, the defacto complainant had invested huge money on various occasions between the



period 2012 and 2018. Since the petitioner failed to repay the amount, the second respondent lodged a complaint before the first respondent. Based on the said complaint, FIR has been registered against the petitioner and others in Crime No.2 of 2021 for the offences punishable under Sections 406, 420, 120(b) of I.P.C and Section 5 of Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997 and the petitioner is arrayed as A2.

3. Heard both sides and perused the materials available on record.

4. It is seen from the First Information Report that there are specific allegation as against the petitioner, which has to be investigated. Further the FIR is not an encyclopedia and it need not contain all facts. Further, it cannot be quashed in the threshold. This Court finds that the FIR discloses *prima facie* commission of cognizable offence and as such, this Court cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

5. It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.A.No.255 of 2019*** dated **12.02.2019 - *Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors.***, as follows:-

"4. The only point that arises for our consideration in this case is whether the High Court was right in setting aside the order by which process was issued. It is settled law that the Magistrate, at the stage of taking cognizance and summoning, is required to apply his judicial mind only with a view to taking cognizance of the offence, or in other words, to find out whether a *prima facie* case has been made out for summoning the accused persons. The learned Magistrate is not required to evaluate the merits of the material or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to a conviction or not.

5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court



to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for the High Court to interfere.

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8.....

9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not to have set aside the order passed by the Trial Court issuing summons to the Respondents. A perusal of the complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."

6. In view of the above discussion, this Court is not inclined to quash the First Information Report. Hence, this Criminal Original Petition stands dismissed.

7. At this juncture, the learned Senior Counsel appearing for the petitioner submitted that though the petitioner has no case on merits before this Court, the petitioner is ready and willing to settle the amount as requested by the depositors.

8. Accordingly, the first respondent is directed to furnish the depositors details so that the petitioner can settle the amount. If the petitioner has not settled the amount within a period of eight weeks from the date of receipt of a copy of this order, the first respondent police is directed to complete the investigation and file a charge sheet before the concerned Magistrate, within a period of



twelve weeks thereafter. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

ps

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Inspector of Police,
Economic Offence Wing,
Dindigul,
Dindigul District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.MADHAVA GOVINDAN, Advocate (SR-5217[F] dated 09/02/2022)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-5789[F] dated 11/02/2022)

Crl.O.P(MD)No.728 of 2022
09.02.2022

SB(CO)
KB(22.02.2022) 4P 5C