



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 28.02.2022

PRONOUNCED ON : 04.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.612 of 2022

and

Crl.M.P(MD)No.1704 of 2022

M.Mathan Kumar

... Petitioner/Defacto complainant

Vs.

- 1.The Director General of Police,
Tamil Nadu State Police Department,
Chennai.
- 2.The Inspector General of Police,
Trichy Region,
Trichy.
- 3.The Deputy Inspector General of Police,
Trichy Region,
Trichy.
- 4.The Superintendent of Police,
Karur District.
- 5.The Inspector of Police,
District Crime Branch,
Karur District.
- 6.The Inspector of Police,
CBCID Unit,
Trichy.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to transfer the investigation in Crime No.15 of 2019, dated 22.10.2019 on the file of the fifth respondent to the sixth respondent and consequently direct the sixth respondent to conduct fair and unbiased investigation and file a final report within the time stipulated by this Court.

For Petitioner	: Mr.G.Prabhu Rajadurai for Mr.S.Gokul Raj
For Respondents	: Mr.B.Thanga Aravindh Government Advocate (Crl. Side)

ORDER

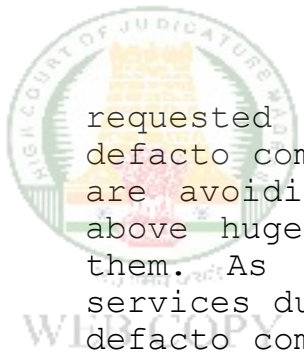
This Criminal Original Petition has been filed to transfer the investigation in Crime No.15 of 2019, dated 22.10.2019 from the file of the fifth respondent to the file of the sixth respondent.



2. The case of the prosecution is as follows:-

2.1. The petitioner/defacto complainant lodged a complaint alleging that he had contacted two officials, namely Aravind, Deputy General Manager and Mahadev, H.R Manager, who are arraigned as Accused Nos.7 and 8 of the Company, namely Pinnacle Vehicles and Services Private Limited in their office premises at NH47 Mannuthy Bye-pass, Kuttanellur Post, Thrissur, Kerala in connection with his car business at Karur. These two persons introduced the owners of the company viz., accused Nos.1 to 3 and also fourth and fifth accused and informed that Rajshree Motors is their sister concern. All of them jointly told the defacto complainant has to make a deposit amount of Rs.1,00,00,000/- (Rupees One Crore only) and it was mutually agreed that the amount fixed is only a formality for agreement purpose and that the amounts payable is according to his choice of business with them to deal with new Hyundai and Skoda Cars. They had further informed that the defacto complainant has to sign the agreement to be prepared by them; that they will supply cars and that the defacto complainant had to pay amounts as directed by them to the account of the fourth and fifth accused and also to their sister concern viz., Rajshree Motors besides payments directly to the company; that they also insisted that only after minimum payment of Rs.35,00,000/- agreement will be prepared by them to deal with their cars; that they jointly, orally agreed and undertaken that if all such payments that will be made by the defacto complainant as per their directions, all the first three accused are responsible for return of the deposit with 18% interest; that as they are doing car business in Kerala and other parts of India as well, the defacto complainant believed their words and paid a total sum of Rs.77,00,000/- on different dates as directed by them. Only after such payments to the tune of Rs.62,00,000/- made out of Rs.77,00,000/- by the defacto complainant through his company Bank accounts to their Bank accounts, they prepared an agreement and asked the defacto complainant for signing in the agreement and the defacto complainant informed all the above persons that he will sign the same without full consent of him as the agreement is prepared with clauses in favour of them only, for which, they replied that it is only a formality, but they will be genuine for returning his amounts given through the defacto complainant's company. Believing their words, the defacto complainant had signed in the agreement and it is to be noted that before preparing the agreement, Rs.62,00,000/- was paid which was not recorded in the agreement by them. Even after that also several payments of the balance sum of Rs.15,00,000/- was paid to them as directed on different dates.

2.2. For all payments made from 03.05.2019 to till date for the said sum of Rs.77,00,000/- there is Bank accounts available with the defacto complainant. Thereafter, whenever the defacto complainant asked them to supply cars with some specified colours etc., they



requested through his company, Mathan Car Decors. Whenever the defacto complainant contacted through phone for supply of cars, they are avoiding for one or other reasons and they are enjoying the above huge deposits made with the company as directed by all of them. As the defacto complainant was not satisfied with their services due to their failure to keep words and promises made to the defacto complainant to improve his business, the defacto complainant had stopped further payments and requested them to repay the abovesaid Rs.77,00,000/- deposited on 15.07.2019, for which, they replied that they will arrange the funds within a week's time. But they failed to repay the money and saying one or other reasons for repayment. Therefore, all the above persons cheated him. If the defacto complainant pressurizes for return of the sum of Rs.77,00,000/-, all of them are threatening that his life will be in danger and that he should not take any civil or criminal proceedings against them and they are liable to return his money with 18% interest. When the defacto complainant asked them for interest, they scolded him with filthy language and assaulted him in front of the other office staff members. Accused Nos.7 and 8 showed a knife in front of his face and gave life threat and accused Nos.4 and 5 threw a table weight on him and tried to kill him. All these things were done by all of them only at the instruction of the owners, viz., the petitioners herein. Hence, the defacto complainant lodged a complaint against the accused.

3. The learned counsel appearing for the petitioner/defacto complainant would submit that accused Nos.1 to 3 filed anticipatory bail application before this Court in Crl.O.P(MD)No.205 of 2020 and this Court dismissed the same, by an order dated 22.01.2020. Thereafter, the second accused was arrested and remanded to judicial custody. Hence, the second accused moved a petition for bail in Crl.M.P.No.188 of 2020 before the learned Sessions Judge, Karur. By an order, dated 03.03.2020, the second accused was granted bail on condition that the second accused was directed to deposit a sum of Rs.34,00,000/- (Rupees Thirty Four Lakhs only) to the credit of Crime No.15 of 2019 of the District Crime Branch, Karur. On such deposit, he was ordered to be released on bail. Insofar as the accused Nos.1 and 3 are concerned, they filed second anticipatory bail application before this Court in Crl.O.P(MD)No.2708 of 2021 and this Court, again dismissed the same by an order dated 01.03.2021. Aggrieved by the same, the accused Nos.1 and 3 filed Special Leave Petition before the Honourable Supreme Court of India in SLP(Crl.) No.3827 of 2021. By an order, dated 06.09.2021, the Honourable Supreme Court of India dismissed the Special Leave Petition.

4. The learned counsel appearing for the petitioner would further submit that even after dismissal of anticipatory bail application of accused Nos.1 and 3 by this Court, which was confirmed by the Honourable Supreme Court of India, the fifth respondent did not take any steps to secure them and the fifth



conducting any proper investigation.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondents and perused the materials available on record.

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6. Pending this petition, the second accused filed a petition in Crl.M.P(MD)No.1704 of 2022 to implead himself as a party in this Criminal Original Petition seeking for transfer of investigation. The proposed party, being an accused, has no right to be heard at the stage of investigation and he cannot choose the investigating agency according to his whims and fancies. Therefore, he has no right to play in the present Criminal Original Petition and this impleading petition is dismissed.

7. At the same time, the only apprehension of the petitioner/defacto complainant is that the fifth respondent is trying to delete accused Nos.1 and 3 from the F.I.R while filing the final report. Further, the fifth respondent has not taken any steps to secure the accused Nos.1 and 3 even after dismissal of the anticipatory bail applications, which was confirmed by the Honourable Supreme Court of India.

8. The learned Government Advocate (Criminal Side) would submit that the investigation is on the progress and they have examined so many witnesses and collected documentary evidences and about to complete the investigation. At this stage, if the investigation is transferred, the entire investigation will be affected and could not be able to file a final report.

9. In view of the above, this Criminal Original Petition is dismissed. However, the fifth respondent is directed to complete the investigation and file a final report in Crime No.15 of 2019 within a period of twelve weeks from the date of receipt of a copy of this order. The fourth respondent is directed to monitor the investigation done by the fifth respondent and ensure that the fifth respondent is complying the orders passed by this Court. Crl.M.P(MD) No.1704 of 2022 is dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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 Director General of Police,
Tamil Nadu State Police Department, Chennai.
 - 2.The Inspector General of Police,
Trichy Region, Trichy.
 - 3.The Deputy Inspector General of Police,
Trichy Region,
Trichy.
 - 4.The Superintendent of Police, Karur District.
 - 5.The Inspector of Police,
District Crime Branch,
Karur District.
 - 6.The Inspector of Police,
CBCID Unit, Trichy.
 - 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1 CC to M/s.S.GOKULRAJ, Advocate (SR-9984[F] dated 04/03/2022)
- +1 CC to M/s.K.Rajeshwaran, Advocate SR.No. 10418 dated 07.03.2022

Crl.O.P(MD)No.612 of 2022
04.03.2022

SP(CO)
KB(16.03.2022) 5P 11C