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BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

RESERVED ON : 29.03.2022

PRONOUNCED ON : 01.04.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.5777 of 2022

and

Crl.M.P(MD)No.4092 of 2022

Ramprabhu @ Ramprabhu Rajendran

... Petitioner/Sole Accused

Vs.

1.The State represented by,
The Inspector of Police,
District Crime Branch,
Virudhunagar District.
(Crime No.3 of 2022)

... 1st Respondent/Complainant

2.Muhammadu Thamim Baig

... 2nd Respondent/
Defacto Complainant

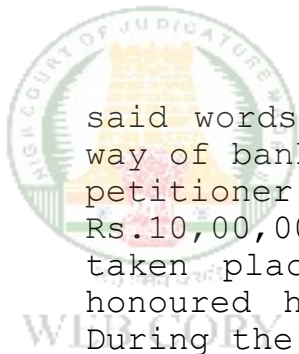
Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in Crime No.3 of 2022 on the file of the first respondent police and quash the same.

For Petitioner	: Mr.N.R.Ilango Senior Counsel for Mr.G.Mariappan
For R - 1	: Mr.R.M.Anbunithi Additional Public Prosecutor
For R - 2	: Mr.T.Thirumurugan

ORDER

This Criminal Original Petition has been filed to quash the FIR registered in Crime No.3 of 2022 on the file of the first respondent for the offences under Sections 420, 465, 468, 471 and 506(i) of I.P.C as against the petitioner.

2.The case of the prosecution is that the second respondent/defacto complainant is a resident of Chennai and he introduced one Balamurugan to the petitioner. The petitioner stated to the second respondent that he had supplied 'iridiyam' to Australian company and he has to receive a sum of Rs.10,000/- crores towards the above transaction. The petitioner had shown some documents purported to have been issued by Reserve Bank of India, as if the sum of Rs.10,000/- is due to the petitioner. Hence, the petitioner had induced the second respondent that if he pays a sum of Rs.1,00,000/-, it will be returned as One crore. Believing the



said words, the second respondent parted a sum of Rs.5,00,000/- by way of bank transaction and also a sum of Rs.5,00,000/- in cash. The petitioner had alleged that one Velu had also paid a sum of Rs.10,00,000/- under the above promise. The above occurrence had taken place during the year 2015. Since the petitioner had not honoured his promise, he started to ask for repayment of money. During the year 2019, the petitioner had issued some signed, unfilled stamp papers as a security towards repayment. So far, the petitioner had not returned the money. Hence, the second respondent lodged a complaint on 24.02.2022. Based on the said complaint, F.I.R has been registered as against the petitioner.

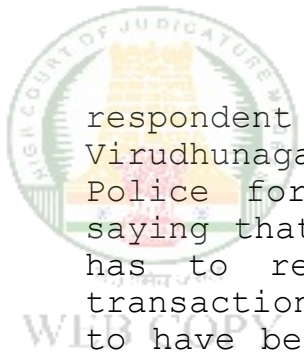
3.The learned Senior Counsel appearing for the petitioner has raised the following grounds:-

3.1.The petitioner is an agriculturist and doing life stock profession and he is having an organic farm and he is also doing extensive agricultural operation and also producing milk and selling in a larger manner. The petitioner had obtained licence from the Department of Industries and Commerce, as an M.S.M.E Udyok Aadhar Registration, Udyok Aadhar Memorandum. The petitioner is also an income tax assessee and submitted income tax return from 2013 to 2022. The petitioner had paid income tax for a sum of Rs.9,53,390/- during the Financial Year 2021-2022. The petitioner is also a registered Assessee under the GST Act and he has been paying the GST taxes for the products, he has been selling. The petitioner had not at all cheated the second respondent and he has no necessity to cheat the second respondent, as he is already engaged in agriculture allied business industries.

3.2.The second respondent was introduced by one Balamurugan and the petitioner had obtained a loan for a sum of Rs.5,00,000/- through Bank transaction and a sum of Rs.5,00,000/- in cash during the year 2015. The petitioner had repaid the amount, which he had received through bank transaction and he had also paid exorbitant interest towards the above loan amount. During the year 2019, the second respondent had demanded the remaining payment of Rs.5,00,000/- and the petitioner had agreed to pay the amount in order to avoid further complications. The dispute is purely a civil transaction between the parties and there was an exchange of documents and materials which will support that the transaction is purely civil in nature. The above complaint and subsequent investigation is nothing but abuse of process of law and the same is liable to be quashed.

4.Heard the learned Senior Counsel appearing for the petitioner, the learned Additional Public Prosecutor appearing for the first respondent and the learned counsel appearing for the second respondent and perused the materials available on record.

<https://hcservices.equities.gov.in> 5. On perusal of the records revealed that the second



respondent lodged a complaint before the Superintendent of Police, Virudhunagar, which was forwarded to the Deputy Superintendent of Police for enquiry alleging that the petitioner induced him by saying that he had supplied 'iridiyam' to Australian company and he has to receive a sum of Rs.10,000/- crores towards the said transaction. The petitioner had also shown some documents purported to have been issued by the Reserve Bank of India as if the sum of Rs.10,000/- crores is due to the petitioner. Thereby, the petitioner induced the second respondent that if he pays a sum of Rs.1,00,000/- it will be returned as one crore. Trusting the said words, the second respondent had parted with a sum of Rs.5,00,000/- by way of bank transaction. Further, one Velu had also paid a sum of Rs.10,00,000/-. However, the petitioner failed to honour his promise and he has also issued some signed, unfilled stamp papers, as a security towards the repayment.

6.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



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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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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."

The Honourable Supreme Court of India held that 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. Further complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature.

7.Further, there are specific allegations as against the petitioner and it has to be investigated in depth. In fact, for the past five years, there are so many complaints as against the petitioner and at last the first respondent registered the case and investigation is under progress. 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.

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



to complete the investigation and file a final report before the concerned Magistrate, within a period of twelve weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

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,
District Crime Branch,
Virudhunagar District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G.MARIAPPAN, Advocate (SR-15929[F] dated 01/04/2022)

+1 CC to M/s.T.THIRUMURUGAN, Advocate (SR-16260[F] dated 04/04/2022)

CrI.O.P(MD)No.5777 of 2022
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NSN(CO)
KB(07.04.2022) 5P 5C