



CrI.O.P.(MD) No.6196 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.08.2022

Pronounced on: 05.08.2022

CORAM:

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CrI.O.P.(MD) No.6196 of 2019

and

CrI.M.P(MD) No.4079 of 2019

Ravi

...Petitioner

vs

1. The Inspector of Police
District Crime Branch
Sivagangai, Sivagangai District.

2. Ramadoss

..Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the entire records in relating to the impugned FIR in Cr.No.22 of 2018 on the file of the 1st respondent police and to quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.S.Jeyakarthik

For Respondents : Mr.M.Sakthi Kumar
No.1 Government Advocate (CrI.Side)
No.2 :Mr.G.Karuppasamy Pandiyan



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ORDER

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This Criminal Original Petition has been filed seeking a direction to quash the proceedings in Crime.No.22 of 2018 on the file of the first respondent police.

2. The learned counsel for the petitioner would submit that the petitioner is the first accused in the case registered against him and five others on the complaint given by the defacto complainant (second respondent).

3. In the complaint, the complainant contended that he was working as Chief Executive Officer in Global Technology Company at Kuwait. His family members were introduced to the petitioner/accused Ravi by the second accused Asraf Ali as person of spiritual Guru. Believing the words, the defacto complainant gave a sum of Rs.4.65 Crores for constructing ashramam, but the accused failed to construct any ashramam and utilized the money for some other purpose, thereby cheated the defacto complainant. Hence, he had given the complaint against the accused persons and five others, based on which, a case has been registered in Crime No.22 of 2018 for the offences under Sections



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406, 420, 120(b) and 506(2) IPC on 26.11.2018. Further, the allegations set out in the complaint are baseless and contrary to the stand taken by the defacto complainant before the civil Court while filing civil suit against the petitioner and his wife for recovery of money. Further he contended that the defacto complainant filed a suit in O.S. No10 of 2019 on the file of the District Court, Sivagangai, against this petitioner for recovery of money for a sum of Rs.3,38,61,147.50 (Rupees Three Crores Thirty Eight Lakhs Sixty One Thousand One Hundred and Forty Seven and Paise Fifty only) with interest. In the suit, the petitioner filed affidavit for attachment of the property in I.A.No.2 of 2019. In the affidavit, he has averred that the petitioner obtained money from the defacto complainant as loan. Further, in the suit which was filed against the petitioner's wife Bhuvaneswari in O.S.No.12 of 2019 before the same Court for recovery of money of Rs.57,61,366/- (Rupees Fifty Seven Lakhs Sixty One Thousand Three Hundred and Sixty Six only) with interest at 12% p.m. In the said suits, the defacto complainant has stated that the amount was given as loan. Therefore, there is no cheating played by the petitioner towards the complainant. With regard to the complaint mentioned amount, two suits have been filed against the petitioner and his wife. Therefore, the dispute between the parties being civil in nature, the criminal complaint is unsustainable and it



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would amount to misuse of process of law and Court and thus, pleaded to quash the complaint.

4. The learned Government Advocate (Crl.Side) would submit that in this case, investigation has been completed and final report has been filed before the learned Judicial Magistrate No.II, Sivagangai on 06.07.2022 vide e.filing No. 4331/2022 and the same is not yet taken on file. Since investigation has been completed, *prima facie* there is an allegation of the offence and hence, before commencement of trial, it is not proper to quash the case and hence pleaded to dismiss the petition.

5. The learned counsel appearing for the second respondent/defacto complainant would submit that in this case, admittedly, two suits have been filed, one against the petitioner and other against his wife in O.S.Nos.10 of 2019 and 12 of 2019 on the file of the District Court, Sivagangai. Since the petitioner and other accused cheated the defacto complainant by receiving huge amount for their criminal liability, they have to be prosecuted. Further, in this case, investigation has been completed. Before commencement of trial, the



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criminal proceedings against the petitioner need not be quashed and hence, pleaded to dismiss the same.

6. I have considered the submission of the learned counsel appearing for the petitioner, second respondent/defacto complainant and the learned Government Advocate (criminal side) appearing for the respondent police.

7. Perusal of the record reveals the fact that the defacto complainant gave a complaint against the petitioner and five others, namely, Azrafali, Bhuvaneswari, Deva, Motheeswaran and Rajamanickam on 26.11.2018. On the complaint received by the respondent police, they registered a case in Crime No. 22 of 2018 for the offences under Sections 406,420,120(b) and 506(2) IPC. The allegation in the complaint is that complainant is working in a company by name, Global Technology in Kuwait as Chief Executive Officer and his wife Subathra Devi is a doctor. The defacto complainant and his wife were introduced to the petitioner/accused by the second accused Ashraf Alli and they made to believe the accused Ravi as Spiritual Guru. The petitioner/accused demanded money for constructing ashramam. Thereafter, the defacto



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complainant sent money to the petitioner/accused to the tune of Rs.4.65 Crores through SBI Account No.32971860340, ICICI Account No.612405016124 of Ravi and SBI Account No.3073471617 and ICICI Account No.612401502723 of Bhuvaneswari. When he came to India, he found that the petitioner/accused had not constructed any Ashramam as stated by him and also evaded to repay the amount and thereafter only, he realized that he was cheated and hence, he preferred a complaint.

8. At this stage, the ratio laid down by the Hon'ble Supreme Court in the case of *State of Haryana vs. Ch. Bhajan Lal (AIR) 1992 SC 604* has to be kept in mind before evolving the case. Merely because an act has a civil profile, it is not sufficient to denude it of its criminal outfit. The investigating agency should have freedom to go into the allegations as a whole, to reach the conclusion of its own. In this case, the investigating officer after completing the investigation has also filed a charge sheet before the learned Judicial Magistrate No.II, Sivaganagi.



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9. Further, in this case, from the reading of the First Information Report, it reveals that there are sufficient allegations for full-fledged investigation. Further, the investigating officer has also completed the investigation and filed the final report before the learned Judicial Magistrate No.II, Sivagangai on 06.07.2022 vide e.filing No.4331/2022. Hence, the FIR need be quashed, since it does not satisfy the parameter laid down by the Hon'ble Supreme Court in the ***State of Haryana vs.Ch.Bhajan Lal*** reported in ***(AIR) 1992 SC 604***.

10. Accordingly, this Criminal Original Petition is dismissed. Consequently connected miscellaneous petition is closed.

05.08.2022

Internet: Yes
Index: Yes/No
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To

1. The Inspector of Police
District Crime Branch
Sivagangai, Sivagangai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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V.SIVAGNANAM, J.

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