



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.8838 of 2019

and

Crl.MP(MD)Nos.5591 and 5592 of 2019

WEB COPY

1.David Kumar

2.Elizabeth Mary

: Petitioners/Accused

Vs.

1.State represented by

The Inspector of Police,
District Crime Branch,
Sivagangai.

: R1/Complainant

2.Stella John Kennady

: R2/De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in CC No.138 of 2019 pending on the file of the Judicial Magistrate No.2, Sivagangai and quash the same.

For Petitioners : Mr.S.Samuel James Devasagayam

For 1st Respondent : Mr.P.Kottai Chamy
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.S.M.A.Jinnah

O R D E R

This criminal original petition is filed seeking quashment of the case in CC No.138 of 2019 pending on the file of the Judicial Magistrate No.2, Sivagangai.

2.The case of the prosecution in brief:-

The de-facto complainant was working as a Government Teacher and she was looking for a job for his elder son. The accused persons promised the de-facto complainant to secure a job for her elder son and also asked her to transfer Rs.1,00,000/- to the account of one Vetrikumar Raj, who is his relative. Rs.1,11,000/- was also collected by the accused in person. But they failed to keep their promise and failed to secure the job for her son. They also refused to repay the amount. Towards discharge of repayment, they paid



Rs.62,000/- and the balance amount of Rs.49,000/- was not repaid. So a complaint was lodged. Based upon which, investigation was undertaken and final report was filed stating that these accused persons committed the offence of cheating, misappropriation etc.

3. Seeking quashment of the same, this petition is filed by the petitioners on the ground that the petitioners are neighbours and after completing M.A Degree, the son of the de-facto complainant was jobless and knowing that A2 sister's son-in-law by name Vetrikumar Raja was working in abroad, requested A2 to get a job for her son. Thereafter only, the de-facto complainant approached the Vetrikumar Raja and the dealings between the above said Vetrikumar Raja and the de-facto complainant was known to them. He extorted money from the petitioners. They also assured to settle the amount within a reasonable time. But that was not considered.

4. Heard both sides.

5. As mentioned in the preamble portion, it is a complaint of the de-facto complainant and it is a job racketing and these petitioners are actively involved by using the account of one Vetrikumar Raja. It is the case of the petitioner that there was dealing between the above said Vetrikumar Raja and the de-facto complainant and these petitioners are noway involved. Absolutely this is a factual issue, which cannot be gone into by this court at this stage.

6. From the perusal of the records, it is seen that during the course of investigation, the police collected materials, recorded the statement of witnesses. It is the case of the petitioners that Rs.62,000/- was extorted under pressure. So that can also be a matter for consideration during the course of trial only. A copy of the undertaking letter, which was executed by the petitioners is also enclosed in the typed set of papers.

7. The learned counsel appearing for the petitioners would rely upon the recital of the above said payment, wherein it has been stated that the amounts were transferred to the account of Vetrikumar Raja and not to these petitioners. The learned counsel appearing for the petitioners would submit that this document has also been obtained under force, wherein we find that some of the witnesses were signed. Whether it is a document which was obtained by force is a factual issue, which cannot be gone into by this court.

8. The learned counsel appearing for the 2nd respondent would rely upon this document to show that only the petitioners promised the de-facto complainant to secure a job for her son and later failed. Except the factual issue, no other ground has been made by the petitioners in the grounds. So I find no ground to quash the proceedings. The petitioners have to undergo the trial



process.

9.In the result, this criminal original petition is **dismissed**.
Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

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/ /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 Judicial Magistrate No.2,
Sivagangai.
- 2.The Inspector of Police,
District Crime Branch,
Sivagangai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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TR(08.04.2022) 3P 4C