



CrI.O.P.No.6183 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.6183 of 2022

and

CRL.M.P.No.3475 of 2022

M.Vinayagam @ Bharath

... Petitioner

Vs

1.State represented by
The Inspector of Police,
District Crime Branch,
Thiruvannamalai.

2.Suban Sahib

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in Crime No.9 of 2019 pending investigation on the file of the 1st respondent and quash the same.

For Petitioner : Mr.Ram Kumar

For R1 : Mr.A.Gopinath
Government Advocate (CrI Side)

ORDER

This Criminal Original Petition has been filed to quash the FIR
in Crime No.9 of 2019 on the filed of the first respondent.



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2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent.

3. The crux of the allegation is that the petitioner herein cheated the second respondent to the tune of Rs.78,25,000/-. On the guise of including the second respondent's son as a business partner in a hotel business, the petitioner had received a sum of Rs.25,00,000/-, during the month of April 2014. In the year 2015, a further sum of Rs.50,00,000/- was invested by pledging the jewels and out of the agricultural income to include the second respondent's son in diamond business. However, the petitioner had delayed and later closed his business and vacated his residence in Tiruvannamalai. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in Crime No.9 of 2019 for the offence under Section 420 of IPC.

5. It is seen from the records that the second respondent and his son had repeatedly given petitions before the Superintendent of Police,



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Tiruvannamali and the respondent acted upon the same issue time and again and therefore, now this case is registered. On 20.08.2018, the second respondent's son caused a legal notice to the petitioner for recovery of Rs.75,00,000/-. In the reply dated 28.08.2018, the petitioner stated that a sum of Rs.10,00,000/- was received in this regard by him as full and final settlement. The second respondent is in possession of two cheques issued by the petitioner bearing No.000021, dated 06.06.2014 in favour of the second respondent and cheque bearing No.000104, dated 19.10.2015, in favour of Sun Impex. Both the cheques had lost their validity and further the second respondent is in no way connected to the so called Sun Impex transaction.

6. On 26.03.2018, the petitioner and the second respondent had entered into a compromise and the second respondent's son had agreed for the total settlement of Rs.10,00,000/- from the petitioner and he has received a sum of Rs.4,00,000/- on 26.03.2018 and further a sum of Rs.4,00,000/- on 23.04.2018. On 02.05.2018, a sum of Rs.2,00,000/- was handed over to the second respondent and the said complaint was closed. Thus, a civil transaction between the petitioner and the second respondent and his son, which was painted in a criminal colour was closed.



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6. Therefore, the present FIR is nothing but a clear abuse of process of law and it cannot be sustained as against the petitioner, since the entire amount has been settled by the petitioner and the same was also recorded by this Court in CrI.O.P.No.17291 of 2019, by an order dated 10.07.2019, while ordering anticipatory bail to the petitioner. Even assuming that the petitioner owes some money, it is completely a commercial transaction and all the allegations levelled as against the petitioner is civil in nature.

7. In view of the above discussion, FIR in Crime No.9 of 2019 pending investigation on the file of the 1st respondent is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

01.12.2023

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Index:Yes/No
Internet:Yes/No



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To

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

2.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN,J.

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