



CRL. OP No.5892 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.06.2023**

CORAM:

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

CRL. OP No.5892 of 2022

S.Karthick : Petitioner
versus

1.The Inspector of Police,
Rasipuram Police Station,
Namakkal
(Crime No.233 of 2018)

2.Murali : Respondents

Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in CC No. and to quash the proceedings in Cr.No.233 of 2018 on the file of the 1st respondent police.

For Petitioner : Mr.C.Iyyapparaj

For Respondent : Mr.A.Gokulakrishnan,
Additional Public Prosecutor,
for the first respondent

Mr.S.Murali,
Second respondent, appeared in person



CRL. OP No.5892 of 2022

ORDER

The petitioner, accused in Cr.No.233 of 2018, for offences punishable under Sections 420 and 506(i) IPC, on the file the first respondent, has filed this petition to quash the proceedings.

2. The gist of the complaint is that on 08.04.2018, at about 5 p.m., the second respondent defacto complainant had lodged a complaint stating that his sister, who has completed Diploma in Nursing and employed in a private hospital in Chennai, received a call in her mobile phone on 07.04.2018, and the person at the other end informed her that he was employed in Trichy Airport and that he would get employment for her, if she is interested, and she has to pay a sum of Rs.3,000/- as registration charge. Believing the same, the sister of the second respondent, had informed her parents; the second respondent with her educational certificates and cash of Rs.3,000/-, met the petitioner on 08.04.2018 at about 4 p.m. and handed over the cash and certificates. Thereafter, since the petitioner showed no interest in verifying the certificates or any other details, the defacto complainant suspected the bona fides of the petitioner and he immediately contacted Trichy Airport. He was informed that no recruitment was going on at that time. Immediately, the petitioner was



CRL. OP No.5892 of 2022

asked to return back the money; which he refused. Hence, the present complaint was lodged.

3. Learned counsel for the petitioner submitted that the petitioner is an employee in Sakthi Business Development, which is a consulting agency for job seekers, and they used to collect Rs.3,000/- as registration charges. The said agency is run by one Sakthi Prasanna. The petitioner is a graduate and due to the pendency of the above case, he is unable to apply for any employment in Government service and public sector undertakings. Even in the private sector, while verifying the antecedents of the petitioner, the present case crops up in Crime and Criminal Tracking Network and Systems, due to which, he still remains unemployed. Though he was able to secure a job in the Middle East, due to the pendency of the above case, he was denied the same. Learned counsel further submitted that from the year 2018 till date, there is no progress.

4. This Court had called for report from the Judicial Magistrate, Rasipuram about the status of the case. The learned Judicial Magistrate has sent a report stating that so far, charge sheet has not been filed by the police. The petitioner has filed a copy application on

Page 3 of 8



CRL. OP No.5892 of 2022

26.06.2023, seeking a copy of the charge sheet. But the same has been returned stating that charge sheet is yet to be filed. A copy of the copy application with the seal and signature of the Court is produced before me.

5. Learned counsel for the petitioner submitted that from the uncontroverted version in the complaint, it is seen that there is no offence of any false representation or deception. When there is no ingredient of the offence made available, the case has to be quashed. For that purpose, he has relied on the judgment of the Hon'ble Supreme Court in *Rekha Jain vs. State of Karnataka and another*, dated 10.05.2022.

The Hon'ble Supreme Court has held as follows:

"8. ... As per Section 420 of IPC, whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, can be said to have committed the offence under Section 420 of IPC. Therefore, to make out a case against a person for the offence under Section 420 of IPC, there must be a dishonest inducement to deceive a person to deliver any property to any other person."



CRL. OP No.5892 of 2022

6. Learned Public Prosecutor submits that on the complaint of the de facto complainant, a case in Cr.No.233 of 2018 was registered. On the same day, the accused was arrested and from him, an amount of Rs.3,000/- was recovered and the same was recorded in the presence of witnesses. The arrest and recovery has been made in the presence of witnesses. He further submitted that though charge sheet has been filed, the same is yet to be taken on file.

7. The second respondent appeared before this Court today in person and submitted that he is not inclined to further pursue the complaint, and he has made the following endorsement:

“இந்த வழக்கு மேலும் நடத்த விரும்பவில்லை.”

8. Heard both sides and perused the records. It is seen that the petitioner is said to have contacted the sister of the defacto complainant over phone and called her to Rasipuram on the promise of getting her a job. Apart from the defacto complainant and sister, no one else has been examined as witness and no statement recorded to show that these people had met near the Thiruvallvar Government College, Rasipuram and no body witnessed the petitioner receiving cash and documents from them. In this case, though seizure of



CRL. OP No.5892 of 2022

Rs.3,000/- is said to have been made on the said date, the same reached the Court only on 27.04.2023, much after the date of filing of this petition before this Court. Hence, it lacks credibility. It is seen that the mobile particulars regarding the petitioner calling the victim and the victim responding to the said call have not been collected. Further, learned Public Prosecutor fairly submitted that there is no other case pending against the petitioner on a similar nature. The defacto complainant himself has made an endorsement that he is not interested to pursue the case.

9. In view of the above, this Court finds that continuation of the proceedings against the petitioner would amount to abuse of process of law. Hence the case in Cr.No.233 of 2018 stands quashed and so also the further report.

10. In the result, the original petition is allowed. Consequently, Crl.M.P.No.3265 of 2022 is closed.

30.06.2023

tar



CRL. OP No.5892 of 2022

To

- 1.The Inspector of Police,
Rasipuram Police Station,
Namakkal
- 2.The Public Prosecutor,
Madras High Court
- 3.The Judicial Magistrate,
Rasipuram,
Namakkal District



WEB COPY



CRL. OP No.5892 of 2022

M. NIRMAL KUMAR, J.

(tar)

CRL. OP No.5892 of 2022

30.06.2023