



Crl.O.P.No.6338 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.6338 of 2023
and
Crl.M.P.Nos.3998 & 3999 of 2023

Kaleelu Rahman

...

Petitioner

Vs.

1.The State Rep by
The Inspector of Police,
District Crime Branch,
Nagapattinam District.
(Crime No.5 of 2002)

2.B.Riyas

...

Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in connection with C.C.No.60 of 2012 on the file of the learned Judicial Magistrate No.I, Nagapattinam District in connection with Crime No.5 of 2002 on the file of the Inspector of Police, District Crime Branch, Nagapattinam District and quash the same.

For Petitioner : Mr.C.Prithviraj

For Respondents : Mr.S.Santhosh
Government Advocate (Crl. Side)



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ORDER

WEB COPY This Criminal Original Petition is filed to call for the records in C.C.No.60 of 2012, on the file of the Judicial Magistrate No.I, Nagapattinam District, in Crime No.5 of 2002, on the file of the Inspector of Police, District Crime Branch, Nagapattinam District and quash the same.

2.The learned counsel for the petitioner submitted that petitioner is the first accused in C.C.No.60 of 2012, pending on the file of the Judicial Magistrate No.I, Nagapattinam. It is his submission that there is nothing incriminating stated against the petitioner in the complaint and in the FIR about the receipt of the money on the false promise of getting employment in Australia. For the money said to have been paid in 1988, complaint has been given only in 2002 and FIR came to be registered. There is a long delay in registration of FIR. On this ground, the learned counsel for the petitioner prayed for quashing of the proceedings.

3.In response, the learned Government Advocate (Crl.Side) submitted that though there is a delay in giving the complaint, the nature and facts of the case shows that the accused in this case had not only cheated the defacto



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complainant, but the other victims who are shown as witnesses. The accused had collected money from the defacto complainant and other witnesses on the promise of getting them employment in Australia and cheated them. He further submitted that trial is in progress and out of ten witnesses, eight have been examined.

4.Considered the rival submissions and perused the records.

5.Reading of the complaint shows that defacto complainant/second respondent gave a complaint against one Kaleelu Rahman, Veeramalai and Radha. The allegations made in the complaint are that in the beginning of the year 1998, accused told the defacto complainant in the presence of his uncle, Rahamathulla, to secure a job with visa in Australia. They had discussions on 03.01.1998, in room no.201, Royal Hotel Kumbakonam. Believing the words of the accused, defacto complainant paid a sum of Rs.3,00,000/- to the accused. The following persons had also paid the amount, which are as follows:

<i>S.No.</i>	<i>Name</i>	<i>Amount in (Rs.)</i>
1	Kannan	2,70,000/-



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S.No.	Name	Amount in (Rs.)
2	Mohamed Halidh	2,65,000/-
3	Reyas	3,00,000/-
4	Rafeek	2,00,000/-
5	Parthiban	1,00,000/-

However, after receiving the money, the accused failed to get visa and job to them in Australia. Therefore, complaint was given and FIR came to be registered on 30.09.2002, in Crime No.5 of 2002, for the offences under Sections 406, 420 r/w 109 IPC by the District Crime Branch, Nagapattinam. After completion of investigation, final report was also filed in this case. Not only the defacto complainant, but also the persons who had given money, namely, Kannan, Mohamed Halidh, Reyas, Rafeek and Parthiban are also cited as witnesses to speak about the money given to the accused for getting employment with visa in Australia and got cheated. They gave statements reiterating the allegations made in the complaint and the final report. It is also brought to the notice of this Court that majority of the witnesses have been examined in this case. Therefore, this Court is of the view that there are materials available for trying the petitioner for the offences under Sections 406, 420 r/w 109 IPC @ 420 r/w 34 IPC and there are no merits in this petition for quashing of the proceedings in C.C.No.60 of 2012.



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6. Accordingly this Criminal Original Petition is dismissed.

Considering the fact that this case is pending from the year 2002, the learned Judicial Magistrate No.I, Nagapattinam District, is directed to dispose the case as expeditiously as possible within a period of three months from the date of receipt of the copy of this order. Consequently, connected miscellaneous petitions are closed.

21.03.2023

sli

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

To:

1. The Inspector of Police,
District Crime Branch,
Nagapattinam District.
(Crime No.5 of 2002)
2. The Judicial Magistrate No.I,
Nagapattinam District
3. The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.
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