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Crl.O.P.No.23915 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.23915 of 2022 and
Crl.M.P.Nos.15187 & 15188 of 2022

R.Govindaraj

... Petitioner

-Vs-

1) The state of TamilNadu,
Represented by the Sub-Inspector of Police,
District Crime Branch,
Salem District.
(Crime no.13 of 2019)

2) C.Venkatachalam

... Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the entire records pertaining to Final report in C.C.No.221 of 2020 on the file of the Judicial Magistrate-VI, Salem and quash the same.

For Petitioner : Mr.R.Selvakumar

For Respondent 1 : Mr.A.Gopinath,
Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in CC.No.221 of 2020 on the file of the Judicial Magistrate-VI, Salem thereby taken cognizance for the offences under Sections 420 and 506(ii) of IPC as against the petitioner.

2. The case of the prosecution is that the defacto-complainant is the friend of the petitioner. The petitioner represented to the defacto-complainant that he would procure job for the post of Junior Sericulture Inspector in the Sericulture Department for Rs.5,00,000/-. The defacto-complainant introduced one Vijayachitra and another person namely Annamalai and on 22.01.2016 they had given Rs.10,00,000/-. On 23.01.2016, the petitioner is alleged to have given a training certificate, though both of them had undergone training at Mugilpadi Village, Omalur Taluk in a sericulture farm of one Natrajan and further promised that they would get a job within one month. Thereafter, they did not receive any order of job and even after repeated demands to return back the amount, the petitioner was cheating them for the last 14 years. On 12.09.2019 the defacto-complainant along with his friend went to the house of the petitioner. This petitioner threatened the defacto-complainant with dire consequences. Hence, the complaint.



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3. The learned counsel for the petitioner submitted that the said occurrence not at all taken place in order to extract money from the petitioner. False complaint has been foisted up against this petitioner.

4. On perusal of the entire records revealed that the case on hand is the the case of job racketing and the specific averments would attract the offences under sections 420 and 506(ii) of IPC. That apart, the grounds raised by the petitioner can be considered only before the trial court

5. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.A.No.579 of 2019*** dated ***02.04.2019*** in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr.***, wherein it is held as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the



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appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

6. The Hon'ble Supreme Court of India dealing in respect of the very same issue in ***Crl.A.No.1572 of 2019*** dated 17.10.2019 in the case of ***Central Bureau of Investigation Vs. Arvind Khanna***, held as follows:

“19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the



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Competent Court, is completely incorrect and uncalled for."

7. Further the Hon'ble Supreme Court of India also held in the order dated **02.12.2019** passed in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi Vs. K.R.Meenakshi & anr**, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

.....

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."



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8. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.221 of 2020 in Crime No.13 of 2019 on the file of the Judicial Magistrate-VI, Salem. The petitioner is at liberty to raise all the grounds before the trial Court.

9. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are also closed.

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Index :Yes/No
Internet : Yes/No
Speaking order/non-speaking order
gvn



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- To
- 1) The Sub-Inspector of Police,
District Crime Branch,
Salem District.
 - 2) The Judicial Magistrate-VI,
Salem.
 - 3) The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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