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Crl.O.P.Nos.11495 & 17216 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.Nos.11495 & 17216 of 2019

and

Crl.M.P.Nos.5916 & 8684 of 2019

1.R.Thanam

2.S.Umakanga

...Petitioners in Crl.O.P.No.11495 of 2019

1.G.K.Senthil Rajan

2.R.Kandhavel

3.N.Gunasekaran

...Petitioners in Crl.O.P.No.17216 of 2019

-Vs-

1.The State rep. by

The Inspector of Police,
Central Crime Branch,
Salem Taluk,
Salem District.

2.D.Singaram

... Respondents in both Crl.O.Ps.

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the proceedings in C.C.No.41 of 2018 on the file of the Judicial Magistrate No.I, Salem District and to quash the same.



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For Petitioner	: Mr.S.Anil Sandeep For M/s.Law Vision (in both Crl.O.Ps.)
For R1	: Mr.A.Damodaran, Additional Public Prosecutor (in both Crl.O.Ps)
For R2	: Mr.D.Baskar (in Crl.O.P.No.11495 of 2019)
For R2	: No appearance (in Crl.O.P.No.17216 of 2019)

ORDER

These Criminal Original Petitions are filed to quash the final report filed for the alleged offence under Section 420 IPC.

2.The petitioners in Crl.O.P.No.11495 of 2019 are arrayed as A7 and A9 and the petitioners in Crl.O.P.No.17216 of 2019 are arrayed as A2, A3 and A6, in the impugned final report.

3.It is alleged in the final report that the accused as Directors of the firm called Team Life Care Company (India) Limited, had made false representations to the de-facto complainant, stating that they would give



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incentives to them, if they recommend persons to the company under the scheme called Referral Multi Level Marketing Scheme; that the de-facto complainant had participated in the scheme and had recommended several persons between the period from 2004 to 2007; that the petitioners were due to pay Rs.47,19,720/-; that instead of paying the said sum, they had paid only a sum of Rs.31,81,779/- and thus cheated the de-facto complainant to the tune of Rs.15,37,941/-.

4.The learned counsel for the petitioners would submit that the petitioners in both the Criminal Original Petitions had nothing to do with the said company called Team Life Care Company (India) Limited. The learned counsel would further submit that even if the allegations in the final report are accepted to be true, the offence under Section 420 IPC is not made out. It is only the case of dispute with regard to the accounts and the impugned final report does not state that there was deception at the inception in order to attract the offence under Section 420 IPC.

5.The learned counsel for the 2nd respondent would submit that there are materials available to show that the petitioners had cheated the



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de-facto complainant to the tune of Rs.15,37,941/- by making false representations and the points raised by the learned counsel for the petitioners have to be adjudicated only during the course of trial.

6.The learned Additional Public Prosecutor appearing for the 1st respondent, reiterated the submissions of the learned counsel for the 2nd respondent and submitted that the matter has to be adjudicated only during the course of trial.

7.This Court on a reading of the impugned final report, finds that there is absolutely no allegation that the petitioners practiced deception at the inception in order to attract the offence under Section 420 IPC. Further, even as per the final report, the petitioners had paid a sum of Rs.31,81,779/- as incentives to the de-facto complainant. The only grievance of the de-facto complainant is that they were entitled to Rs.47,19,720/- and the petitioners have cheated them to the extent of Rs.15,37,941/-. This is a case of dispute with regard to the quantum of alleged amount due to the 2nd respondent. This would not constitute any offence much less the offence of cheating.



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8.That apart, the earlier complaint given by the 2nd respondent which is registered in Crime No.28 of 2007 was closed on 04.12.2007.

Thereafter, it appears that the case was referred for legal opinion of the Deputy Director of Prosecution. He has given an opinion that this dispute is of civil nature and the offence under Section 420 IPC is not made out. This Court finds that the opinion of the Deputy Director of Prosecution is in accordance with law.

9.Thus, for all the above reasons, the impugned final report in C.C.No.41 of 2018 on the file of the Judicial Magistrate No.I, Salem, is quashed insofar as the petitioners herein are concerned. Accordingly, these Criminal Original Petitions are allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

29.03.2023

smv

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order



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To,
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- 1.The Inspector of Police,
Central Crime Branch,
Salem Taluk,
Salem District.
- 2.The Public Prosecutor,
High Court of Madras.
- 3.The Judicial Magistrate No.I,
Salem.



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SUNDER MOHAN,J.

smv

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