



CRL. RC No.757 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.08.2023**

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

CRL. RC No.757 of 2023

B.Mariappan : Petitioner

versus

1.Inspector of Police,
Special Investigation Cell,
Vigilance and Anti Corruption,
Chennai-600 028.

2.Tr.N.Sri Renganathan
3.Gandhi Christoper
4.K.Karthikeyan

: Respondents

Petition filed to set aside the order made in Crl.M.P.No.123 of 2023 in C.C.No.3573 of 2015 on the file of the Chief Metropolitan Magistrate Court at Egmore, dated 21.02.2023.

For Petitioner : Mr.G.Murugendran

For Respondents : Mr.S.Udaya Kumar
Government Advocate (Crl Side)
R2 to R4- Service awaited



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ORDER

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Petition is filed by the second accused being aggrieved by the dismissal of his petition to compound offence under Section 420 of IPC for which he is facing trial before the Chief Metropolitan Magistrate Egmore in C.C.No.3573 of 2015.

2. The facts of the case appears that this petitioner along with A1 had impersonated themselves as members of DVAC and called the defacto complainant to part away Rs.5,00,000/- to keep him away from registering a case for corruption. Fearing ignominy, the defacto complainant had initially parted away Rs.2,75,000/- and the balance amount of Rs.25,000/- when transferred, A1 was caught by DVAC on 12.07.2012. The name of one Mr.Ponnusamy, DSP of DVAC been misused by A1 for extorting money. Further investigation has revealed that the modus operandi of A1 is to call gullible public servant and intimidate them that he is calling from DVAC office and dropped the name of senior police official in DVAC and dishonestly induced them to pay huge money under the threat of prosecution. Already Ponnusamy, DSP has given a complaint against A1, who had impersonated himself as Krishanmoorthy, DSP attached to Vigilance



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and Anti Corruption. Though the defacto complainant as well as the accused have come forward to compound the offence, the nature of the offence as stated in the final report is cheating by impersonation posing himself as police official, working in DVAC, A1 along with A2 had obtained money from the defacto complainant educating him to part away money under the threat of prosecution. The Trial Court had taken a view that for compounding offence punishable under Section 420, IPC a person who cheated has to consent for compounding and in this case, the reputation of the Department has been taken for ride and it is the Department, which is cheated. Therefore, request for compounding the offence cannot be acceded.

3. The provision under Section 320 of CrPC which enumerates offences which can be compounded and by whom. While referring the offence of cheating, the said Section say the person who is cheated has to agree for compounding the offence.

4. In this case, the defacto complainant, who has parted Rs.25,000/- is the person who is really been cheated and he has come forward to compound the offence. Having filed a petition for compounding the offence and if the Court is satisfied that the petition



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is filed without any coercion or threat, there is no impediment for the Court to entertain the Compounding Petition. Therefore, though the reasoning for dismissing the application for compounding may sound logic but it is not in consensus with law as spelt in Section 320, CrPC. Therefore, the order of the Trial Court is set aside. O.P. 757 of 2023 is allowed. The petitioner is permitted to approach the Trial Court again, revive his petition for compounding the offence and after due enquiry, necessary orders may be passed by the Trial Court in accordance with law.

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mrn



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To

- 1.The Chief Metropolitan
Magistrate Court at Egmore.
- 2.The Inspector of Police,
Special Investigation Cell,
Vigilance and Anti Corruption,
Chennai-600 028.
- 3.The Public Prosecutor,
Madras High Court.



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DR.G.JAYACHANDRAN,J.

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