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Crl.O.P.No.13382 of 2021
and Crl.M.P.No.7358 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl.O.P.No.13382 of 2021
and Crl.M.P.No.7358 of 2021

Asha Laurence

...

Petitioner

versus

1.The State rep. by
Sub-Inspector of Police,
Central Crime Branch,
Coimbatore City.
(Crime No.26/2021)

2.G.Manikandan

...

Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, praying to call for the records relating to the FIR in Crime No.26 of 2021 on the file of the respondent police and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.S.Parthasarathy

For Respondent No.1 : Mr.A.Gopinath
Government Advocate (Crl. Side)

For Respondent No.2 : Mr.T.N.Rajagopalan



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ORDER

This Criminal Original Petition has been filed seeking for a direction to quash the F.I.R. in Crime No.26 of 2021 on the file of the first respondent police.

2. The case of the prosecution is that the first accused has started a Partnership Firm under the name and style of 'L&M Profit Solutions' and the business of the said Firm is to give finance solution. A Memorandum of Understanding between the first accused and the *de facto* complainant / second respondent was entered on 20.08.2020 along with the deed of Partnership Firm on 22.09.2020. The second respondent has invested a total sum of Rs.1,40,00,000/- by sending the same to the first accused through RTGS in accordance with the Memorandum of Understanding that had been already entered between himself and the first accused. Despite it was insisted by the second respondent that the amount should be kept in the joint account of both the first accused and himself, the first accused evaded to do so and at last he gave four cheques towards discharge of the said amount invested by the second respondent. When the cheques were presented for collection, they returned as 'insufficient funds'. Hence, the second respondent has filed a complaint by stating that without doing any business, the amount invested by



the second respondent was swindled by the first accused and for which, the second accused is also a party.

3. The learned counsel for the petitioner submitted that the petitioner / second accused, who is the wife of the first accused is not involved in any of the business agreement between the first accused and the second respondent. Just because she happened to be the wife of the first accused, she had been arrayed as an accused in this case even though there is no overt act on her part. Even the transaction between the first accused and the second respondent is a business transaction and for which criminal colour has been given. Since there is no overt act on the part of the petitioner, who is the second accused, the F.I.R. should be quashed against her.

4. The learned Government Advocate (Crl. Side) for the first respondent submitted that the petitioner is also a party to the offence of cheating committed by the first accused and she is also a beneficiary. Since lot of facts have to be unearthed, investigation should be allowed to go.

5. The learned counsel for the second respondent also submitted the same points and stated that the investigation is essential to find



out the manner in which the amount invested by the second respondent has been utilised by the first accused.

6. No doubt, the Memorandum of Understanding was about the Partnership Firm which was entered between the first accused and the second respondent. The petitioner is none other than the wife of the first accused. The first accused had not done any business that was undertaken by him and neither had he chosen to deposit the amount in the joint account of both the second respondent and himself.

7. The learned Government Advocate (Crl. Side) for the first respondent submitted that a sum of Rs.85,00,000/- has been credited in the account of the petitioner also. In that case, the right of the first respondent to investigate the case by keeping the petitioner also as an accused cannot be denied. There are materials available to make out a case against both the accused 1 and 2. However, I feel it is appropriate for the first respondent to complete the investigation in a time bound manner and do the needful in accordance with law.



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8. With the above observations, this Criminal Original

Petition stands dismissed and the first respondent police is directed to complete the investigation in Crime No.26 of 2021 within a period of two months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

02.01.2023

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri

To

1.The State rep. by
Sub-Inspector of Police,
Central Crime Branch,
Coimbatore City.

2.The Public Prosecutor,
Madras High Court,
Chennai.



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R.N.MANJULA, J.

sri

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