



Crl.O.P.No.18743 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.18743 of 2021

and

Crl.M.P.Nos.10309 & 10311 of 2021

1. Mahendra Kumar

2. Ramesh Kumar

3. Rajendra Kumar

... Petitioners / A1, A2 & A4

-Vs-

1. The State,

Represented by the

Inspector of Police,

CBCID, Puducherry.

... 1st Respondent / Complainant

2. A. V. Venkataramanan

... 2nd Respondent / Defacto Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in C.C.No.1 of 2020 pending on the file of the Chief Judicial Magistrate, Puducherry and to quash the same.

For Petitioner

: Mr. Ramesh Kumar Chopra

For R1

: Mr. K. S. Mohandas,
Public Prosecutor, Puducherry.



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For R2

: No appearance

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ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.1 of 2020 pending on the file of the Chief Judicial Magistrate, Puducherry, filed for the alleged offences under Sections 420 IPC read with 34 IPC.

2.It is alleged in the final report that the petitioners had induced the defacto complainant and made him deliver 259.450 grams of 24 ct pure gold by making a false promise that they would return the same with compound interest of 1.5 grams of pure gold for every 100 grams of pure gold per month, but failed to return the gold with interest.

3.The learned counsel for the petitioner submitted that even according to the allegations, the petitioners had collected the gold on 02.04.1994. The First Information Report was lodged on 05.10.2012 after 18 years of the alleged occurrence. The learned counsel further submitted that the 2nd respondent had come up with this false complaint for the reasons best known to him, though the transactions were completed in the year 1997 when the petitioners had returned the gold and that is the reason for the delay of 18 years in lodging the FIR. The learned counsel further submitted that the final report was filed 8 years



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after the FIR was lodged and the impugned proceeding is nothing but an abuse of process of law. Hence, he prayed for quashing of the impugned proceeding.

4.The learned Public Prosecutor, Puducherry, submitted that though there may be a delay, the allegations has to be adjudicated only before the trial Court and submitted that huge amount of gold is involved in the transaction and the petitioners have to establish their case that they returned the gold to the defacto complainant only before the trial Court.

5.Though notice was sent to the 2nd respondent the same could not be served. Since, there was no representation for the 2nd respondent, this Court requested the learned Public Prosecutor to direct the 1st respondent to inform the defacto complainant about the pending proceedings. However, the learned Public Prosecutor would submit on instructions, that in spite of the best efforts, the 1st respondent could not ascertain the whereabouts of the 2nd respondent and inform him about the pending proceedings.

6.This Court on perusal of the allegations finds that, it is the case



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of the defacto complainant that the petitioners falsely represented that they would return the gold of 259.450 grams received by them from the defacto complainant with compound interest of 1.5 grams of pure gold for 100 grams of pure gold per month; and that they have failed to keep up the promise. This Court is of the view that the allegation at best amounts to breach of promise. That apart the FIR was lodged nearly 18 years after the alleged receipt of gold. The impugned final report was filed 8 years thereafter in 2020. The impugned prosecution cannot be allowed to continue, when the alleged transaction is said to have taken place in the year 1994. The defacto complainant has not given any reasons as to why there was a delay of 18 years in lodging the FIR, though he would vaguely state that he had shifted to Canada. This Court is of the view that the allegations do not attract the offence under Section 420 IPC, and the impugned final report cannot be sustained also for the extraordinary delay in pursuing the complaint. Hence, the impugned proceedings in C.C.No.1 of 2020 on the file of the Chief Judicial Magistrate, Puducherry, is liable to be quashed.

7. Accordingly, this Criminal Original Petition is allowed.

Consequently, connected Criminal Miscellaneous Petitions are closed.



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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

To,

- 1.The Inspector of Police,
CBCID, Puducherry.
- 2.The Chief Judicial Magistrate, Puducherry.
- 3.The Public Prosecutor,
High Court of Madras.

SUNDER MOHAN,J.

smv



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