IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **02.01.2023**

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P Nos.18802 & 19089 of 2019
and Crl.M.P. No.9576 of 2019

S.Kumaravel ... Petitioner in Crl.O.P. No.18802/2019

1. Jayavasanthan
2. P.Shanmugam
3. R.Premavathy
4. P.S.Karthikkeyan
5. K.Jayasuganthi
6. S.Praveen ... Petitioner in Crl.O.P. No.19089/2019

vs.

1. The State represented by
The Inspector of Police,
District Crime Branch,
Namakkal District.
(Cr. No.10/2019)

2. A.Natarajan ... Respondents in both petitions

Criminal Original Petitions are filed under Section 482 of Criminal Procedure Code, to call for the records in the FIR in Cr. No.10 of 2019 dated 10.04.2019 on the file of the first respondent, in so far as these petitioners are concerned and quash the same.

In both petitions:

For Petitioners : Mr.M.Balasubramanian

For Respondent-1 : Mr. A.Gopinath
Government Advocate (crl.side)
2 : No appearance

COMMON ORDER

These Criminal Original Petition are filed to call for the records in the FIR in Cr. No.10 of 2019 dated 10.04.2019 on the file of the first respondent and quash the same as against the petitioners.

2. The petitioner in Crl.O.P. No.18802/2019 is the first accused and the petitioners in Crl.O.P. No.19089/2019 are the accused 2 to 7 in a case registered by the first respondent police in Cr.No.10 of 2019 for the offences under Section 406, 420, 506(i) IPC.

3. The case of the prosecution as it appears from the complaint given by the second respondent is that he was a retired Deputy General Manager of Salem Cooperative Bank. The first accused Kumaravel introduced him to real estate business in the year 2012 by influencing him to invest his money in the real estate business so that he would give 25% of profit or interest @

Rs.1.50/-. Believing the words of the first accused, the second respondent / *de facto* complainant had given a total sum of Rs.54,24,800/- on various occasions between the year 2012-2013. By utilizing the said amount, the first accused had purchased lands and was doing real estate business. Whenever the complainant asked him to give his profit or to give back the principal amount along with interest as agreed, the first accused dodged by stating same lame reasons. It also came to the knowledge of the *de facto* complainant that the first accused had purchased lands in Vasuki Nagar and other places in the names of his wife, sons, relatives. Hence, on these allegations, a complaint was given by the second respondent and after doing the preliminary enquiry, a case has been registered in Cr. No.10 of 2019.

4. The learned counsel for the petitioners submitted that the compliant is bereft of any particulars as to which dates the second respondent gave the huge sum of Rs.54,27,800/- to the first accused; without any such basic details, no case can be made out against the petitioners; even if the second respondent had given the amount to the first accused that would only be construed as money transaction and it cannot be fastened with any criminal liability; since the allegations made in the complaint is unbelievable, it is

liable to be quashed.

5. The learned Government Advocate (Crl.side) submitted that the *de facto* complainant who is a senior citizen was made to believe by the first accused that if money is invested in his real estate business, he would give huge profits to the second respondent; after the *de facto* complainant transferred money to the first accused, he utilized the said amount for purchasing the properties in the names of his own family members and relatives; since the First Information Report has got sufficient ingredients to make out offences against the petitioners for the offence under Section 406, 420, 506(i) IPC, the petition should be dismissed.

6. On perusal of the FIR it is seen that the *de facto* complainant is a retired Deputy General Manager of Salem Cooperative Bank. He is said to have transferred a total sum of Rs.54,27,800/- on various dates to the account of first accused between the year 2012-2013, on the assurance given by the first accused that if money is invested in the real estate business done by him, he would give 25% profit to the defacto complainant or he would return the amount with higher interests. Despite the money was

said to have been given in the year 2012, the *de facto* complainant was not given with any profit or interest till the year 2018. In the complaint the second respondent has further stated that whenever the second respondent approached the first petitioner, he used to give various reasons and evaded to make any payments. The first accused had even purchased certain properties in the names of his wife, son and relatives by utilizing the money given by the second respondent.

7. The above ingredients would show that it is a matter fit for investigation, wherein the first respondent has to investigate the quantum of the amount given by the *de facto* complainant, the *modus operandi* of the first accused on various dates during which the he had purchased properties in the names of his relatives, etc. The allegations about the conduct of the first accused would also show that there are reasons to suspect that the accused had criminal intention in getting money from the second respondent by influencing him.

8. This is not a matter where there are no fundamental ingredients seen to be present in order to make out any case against the petitioners for

the offences under Section 406, 420, 506(i) IPC. Since lot of facts have to be unearthed, it is not appropriate to quash the proceedings at the threshold stage. Even though the First Information Report does not speak about the minute details, it speaks about the basic facts which could make out an offence against the petitioners. In this context, I would only feel that the first respondent should be directed to complete the investigation within a prescribed time limit.

9. In view of the above stated reasons, these Criminal Original Petitions are dismissed and the first respondent is directed to complete the investigation 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

Index : Yes/No
Speaking Order : Yes / No

<u>Note to Office: Issue order copy by 05.01.2023</u>

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To:

1. The Inspector of Police,
   District Crime Branch,
   Namakkal District.

2. The Public Prosecutor,
   High Court, Madras.

R.N.MANJULA, J.,

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Crl.O.P No.18802 of 2019

02.01.2023