



Crl.O.P.No.20082 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No.20082 of 2019

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Crl. M.P.No. 10298 of 2019

1. P.Elanchezhian

2. S.Saravanan

... Petitioners

Vs.

D. Viswanathan

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the C.C.No.102 of 2019 on the file of the learned Judicial Magistrate – I, Villupuram pending disposal of the above Criminal Original Petition and quash the same.

For Petitioners : Mr. M.Palanivel

For Respondent : No Appearance.



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ORDER

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The petition is filed to quash the private complaint filed by the respondent herein for the alleged offences under Section 166, 290, 294 (b), 341, 420, 448, 469, 506 (i) and 379 of IPC.

2. It is alleged in the complaint that the petitioners who are working as an Inspector and Head Constable respectively, attached to the Vikravandi Police Station had committed aforesaid offences during the course of investigation of Crime No.1111 of 2017 against the respondent for the offences under Section 294 (b) and 506 (i) IPC and Section 4 of the Tamilnadu Prohibition of Charging Exorbitant Interest Act.

3. It is further alleged that during the course of the investigation, the petitioners along with the two other police officers had trespassed into the house of the respondent and committed theft of cash of Rs.5,00,000/- kept in the drawer maintained by the respondent in the house. The learned Judicial Magistrate I, Villupuram, had taken cognizance for the offences under Section 420 IPC as against the petitioners (A2 and A4) alone. The learned Judicial Magistrate I, Villupuram dismissed the complaint in so far



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as A1 and A3 are concerned.

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4. The learned counsel for the petitioners would submit that since the petitioners were part of the investigation team in the FIR registered against the respondent and had taken action against the respondent, the respondent being a Lawyer had instituted this false complaint. The allegations are primarily as a result of their action taken during the course of investigation. The petitioners had investigated and filed a final report as against the respondent which is now pending Trial before the learned Judicial Magistrate II, Villupuram. While so, the respondent had come up with this complaint alleging theft and various other offences stated supra. The learned counsel further submitted that the learned Judicial Magistrate I, Villupuram however had not taken cognizance in all the aforesaid offences except for Section 420 IPC and that the allegations would not constitute the offence of Section 420 IPC and hence prayed for quashing of the complaint.

5. Though notice was served on the defacto complainant and a learned counsel had entered appearance, there was no appearance for the respondent on 15.06.2023 and today. Hence, this Court had requested the



learned Additional Public Prosecutor to assist this Court in the instant case.

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6. The learned Additional Public Prosecutor submitted that the allegations primarily relate to the actions taken by the petitioners during the course of investigation and no offence is made out on the allegations.

7. This Court on perusal of the complaint finds that the allegation relates to the action taken by the petitioners during the investigation in Crime No.1111 of 2017 against the respondent. The offence of theft has not been taken cognizance by the learned Magistrate. The only offence that is taken cognizance of is the offence under Section 420 of IPC. There is absolutely no allegation in the complaint to suggest that the petitioners had committed the said offence under Section 420 IPC. The complaint is silent about the nature of deception practiced to attract the said offence.

8. That apart, this Court also finds that the impugned complaint is malafide since action has been initiated against the respondent by the petitioners and others. Therefore, for the above reasons, this Court is of the view that the impugned complaint is an abuse of process of law and is liable



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to be quashed and accordingly quashed.

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9. In the result, the petition is allowed. Consequently, the connected miscellaneous petition is closed. No costs.

23.06.2023

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Index : Yes/No

Internet : Yes/No

Neutral Citation :Yes/No

To

The Judicial Magistrate – I,
Villupuram.



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SUNDER MOHAN. J.

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