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Crl.O.P.No.20532 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.20532 of 2021

and

Crl.M.P.No.11163 of 2021

A. R. Prabhakar

...Petitioner / Accused

-Vs-

1.The State rep. by its:

Inspector of Police (Crime),

Guindy Police Station,

Chennai – 600 032.

... 1st Respondent / Complainant

2.Kotala Rama Krishna Mohan Rao

... 2nd Respondent / Defacto Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the proceedings in FIR No.770 of 2012 on the file of the 1st respondent and to quash the same.

For Petitioner

: Mr. D. Ferninand

For R1

: Mr. A. Damodaran,
Addl. Public Prosecutor

For R2

: Mr. Rajendrakumar
For Mr. S. Sivashanmugam



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ORDER

This Criminal Original Petition has been filed seeking to quash the FIR in Crime No. 770 of 2021 on the file of the 1st respondent, filed for the offence under Sections 406, 420 and 466 of IPC.

2(a).The learned counsel for the petitioner, without going into the merits of the complaint submitted that, the procedure adopted by the 1st respondent in registering the complaint on the direction of the learned IX Metropolitan Magistrate, Saidapet, Chennai, is erroneous. On the complaint filed by the 2nd respondent, the learned Magistrate had passed the following order:

“Complainant present and heard. Forwarded to the Inspector of Police, J-3 (Crime) U/s.202 Cr.P.C. to enquire the matter, investigate the same and to file his report on (or) before 15.09.2021.”

2(b).Since the direction was to investigate and to file a report under Section 202 Cr.P.C, the 1st respondent had no jurisdiction to register the FIR.



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3.The learned counsel for the 2nd respondent (since deceased), however submitted that in view of the error committed by the 1st respondent, the 2nd respondent or his legal heirs should not be left without any remedy.

4.This Court finds force in the submission made by the learned counsel for the petitioner. The registration of FIR by the 1st respondent on the direction extracted above is certainly not in accordance with law. Hence, the FIR in Crime No.770 of 2021 is liable to be quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petition is closed.

5.However, it is open to the parties to workout their remedies in accordance with law.

07.06.2023

smv

Index : Yes/No

Speaking : Yes / No

Neutral Citation : Yes / No

SUNDER MOHAN,J.



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smv

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To,

1. Inspector of Police (Crime),
Guindy Police Station,
Chennai – 600 032.

2. The IX Metropolitan Magistrate, Saidapet, Chennai.

3. The Public Prosecutor,
High Court of Madras.

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