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Crl.O.P.No.22457 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.10.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.22457 of 2023

and

Crl.M.P. Nos.15652 & 15654 of 2023

Selvaraj

... Petitioner

-VS-

1.State Rep. by
The Inspector of Police,
Central Crime Branch,
Coimbatore City,
Crime No.44/2020.

2.P.Shanthi

...Respondents

PRAYER : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in C.C. No.1848 of 2021 on the file of the Judicial Magistrate No.VII, Coimbatore for the alleged offence under Section 420 & 120(B) IPC and quash the same.

For Petitioner : Mr.S.S.Swaminathan

For R1 : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

For R2 : Mr.S.Saravanan



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ORDER

The petitioner herein is a second accused in a criminal case pending on the file of the learned Judicial Magistrate, Coimbatore in C.C. No.1848 of 2021.

2. The learned counsel appearing for the petitioner contended that the complaint given by one Shanthi, is a false complaint to cheat the purchasers and to deceit the bank. The entire alleged transaction which is said to be dishonestly executed to cheat the defacto complainant is between A1 and A4 and one of the accused/A3, is the signatory. As far as the petitioner is concerned, he is neither a party to the documents nor witness to the same. Except the allegation that A1 and the petitioner approached the defacto complainant for bailing her out from a financial crisis, there is nothing incriminating material against him. Hence, the final report filed has to be quashed.

3. However, learned Government Advocate (Crl.Side) submitted that the property of the defacto complainant which was originally pledged in Co-operative Bank for seven lakhs, later at the intervention of A1 and A2 transferred loan from REPCO Bank for Rs.11 lakhs was raised and the loan



account from Co-operative Bank was transferred to REPCO Bank, thereafter, under the guise of helping the defacto complainant to get further finance, Power of Attorney deed was obtained by A1, using the Power of Attorney deed property was sold to A4. Later A4 pledged the property with Indian Overseas Bank for Rs.33 lakhs and defaulted. There are materials available by way of statement of witnesses and the possession of the property with the defacto complainant, pursuant to an agreement dated 11.02.2016 has also been taken into account which would show that there is a role played by this petitioner which attracts offence under Section 120-B and 420 IPC.

4. The learned counsel for the defacto complainant/R2 also submitted that the petitioner herein has in connivance with A1, actively participated in the act of cheating. This Court, without adverting to the merits of the material placed by the prosecution, dispose of this petition to quash the complaint, since there are some statements which incriminates the petitioner. However, those statements are subject to proof and admissibility which can be done only by the trial Court.

5. Therefore, while dismissing this petition to quash, this Court directs the trial Court to take up the trial out of turn and conduct the trial day to day



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Dr.G.JAYACHANDRAN, J.

basis and complete it within a period of four months from the date of receipt of the copy of the order.

6. This Criminal Original Petition is dismissed with the above direction. Consequently, connected Miscellaneous Petitions are also dismissed.

19.10.2023

Index : Yes/No

Neutral Citation : Yes/No

rkp

To

1.The Judicial Magistrate No.VII,
Coimbatore.

2.The Inspector of Police,
Central Crime Branch,
Coimbatore City.

3.The Public Prosecutor,
Madras High Court, Madras.

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and Crl.M.P. Nos.15652 & 15654 of 2023