



CRL. OP No.22689 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **19.07.2023**

CORAM:

THE HONOURABLE MR.N.ANAND VENKATESH

CRL. OP No.22689 of 2022

S.Nagaraj

: Petitioner

versus

1. The State
Represented by its
Inspector of Police,
Selvapuram Police Station (D2),
Coimbatore.
(Crime No.93 of 2022)

2.S.Venkatesan

: Respondent

Petition filed to call for the records and quash the charge sheet as against Accused No.2 in C.C.No.1270 of 2022 on the file of the Judicial Magistrate-V Coimbatore dated 08.07.2022 and pass orders.

For Petitioner : Mr.S.Murugan

For Respondent : Mr.A.Gopinath
Government Advocate



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ORDER

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This petition has been filed seeking to quash the proceedings in C.C.No.1270 of 2022, pending on the file of the Judicial Magistrate-V, Coimbatore.

2. Heard the learned counsel for the petitioner and learned Government Advocate for the first respondent. Second respondent has been served with notice and the name of the second respondent has also been printed in the cause list. There is no representation on the side of the second respondent either in person or through counsel.

3. The second respondent gave a complaint to the first respondent to the effect that the A1 had received gold and money from the second respondent and he had conducted the marriage of his daughter and later he neither returned gold nor the money. Insofar as the petitioner (A2) is concerned, he is said to be the Manager working for A1. Based on this complaint, an FIR came to be registered by the first respondent in Crime No.93 of 2022. On completion of investigation, a final report was filed before the Court below and it was taken cognizance by the Court below for offence



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under Sections 406 and 420 of IPC in C.C.No.1270/2022. Aggrieved by the same, the petitioner (A2) has approached this Court.

4. This Court has carefully gone through the final report as well as the 161 statement of the second respondent. It is seen that entire allegation has been made only as against A1 and the only allegation that has been made against the petitioner is that he was the Manager of A1 and he had helped A1 in withdrawing the amount based on the cheque that was issued by the second respondent. This act on the part of the petitioner per se cannot constitute an offence under Sections 406 and 420 of IPC. There is no charge against the accused persons either for criminal conspiracy or under Section 34. In fact, the petitioner ought to have been made as a witness in this case and it is quite unfortunate that the petitioner was made as an accused. The continuation of the proceedings as against the petitioner will amount to an abuse of process of court which requires interference of this Court in exercise of its jurisdiction under Section 482 of CrPc.

5. In view of the above discussion, the proceedings in C.C.No. C.C.No.1270/2022 on the file of the Judicial Magistrate-V, Coimbatore, is quashed insofar as the petitioner is concerned.

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Accordingly, criminal O.P. stands allowed. The Court below is directed to proceed further with the case insofar as A1 and the proceedings shall be completed within a period of 4 months from the date of receipt of a copy of this order.

19.07.2023

mrn



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To

- 1 The Inspector of Police,
The State
Selvapuram Police Station (D2),
Coimbatore.
- 2 The Judicial Magistrate-V Coimbatore
- 3.The Public Prosecutor,
Madras High Court



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N.ANAND VENKATESH, J.

(mrn)

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