



Crl.R.C. No.1475 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

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THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

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R. Uma

...Petitioner

Vs.

1. State represented by
The Inspector of Police,
P2, Otteri Police Station,
Chennai

2. State represented by
The Commissioner of Police,
Pulianthope, Chennai

...Respondents

Prayer : Criminal Revision Case filed under Section 397(1) r/w 401
Cr.P.C. against the orders dated 09.06.2023 in Crl.M.P.No.18079 of
2023, on the file of X Metropolitan Magistrate, Egmore.

For Petitioner : Mr. K. Venkateswaran
For Respondents : Mr. R.Vinothraha
Government Advocate (Crl. side)



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ORDER

Challenge in this Criminal Revision is made to the orders dated 09.06.2023 in Crl.M.P.No.18079 of 2023, passed by the X Metropolitan Magistrate, Egmore.

2. The revision petitioner filed a petition under Section 156(3) Cr.P.C. in Crl.M.P. No.18079/2023 before the X Metropolitan Magistrate, Egmore, seeking a direction to the 1st respondent, the Inspector of Police P2, Otteri Police Station, Chennai, to register FIR on the complaint preferred by the revision petitioner and to investigate the case.

3. The case of the revision petitioner in a nutshell is as follows:

3.1. The revision petitioner is the owner of the property at Door No.22 (Old No.11/2), Ramanajulu Garden Street, Permbur Barracks Road, Chennai 600 012, and during 2018 she was in urgent need of money as her 3 year old son had a kidney failure.



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3.2. One Mr. Baskar of Ayyanavaram, who is known to the revision petitioner introduced her to one Meganathan, who is doing real estate business. Both of them informed the revision petitioner that they can arrange a loan of Rs.30 lakhs by mortgaging her property in a bank. She had already mortgaged her property for Rs.15 lakhs and she also wanted to discharge the said mortgage loan. In the circumstances Baskar and Meganathan, in collusion with one Gopi, Mahesh, Antony and Rama Subramaniam, made the revision petitioner sign a Memorandum of Understanding dated 07.08.2018 and also took her to the office of Sub Registrar, Purasawalkam and got the signatures in certain documents. Thereafter on 06.09.2018, they took her to Vijaya Bank, Egmore, and got her signature in various documents and gave a sum of Rs.30 lakhs to her.

3.3.The revision petitioner was under the impression that the loan sanctioned by the bank is only Rs.30 lakhs . But to her shock, on 18.01.2020, she received a notice from Vijaya Bank, Egmore, that she has to pay a sum of Rs.1,53,25,840/- immediately or action would be initiated against her under Securitization and Reconstruction of Financial



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Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI Act). According to the revision petitioner all the accused persons had created a partnership firm, in the name and style of M/s. EDU INFOTECH and showed the present revision petitioner as one of the partners. It is her contention that the accused paid her only a sum of Rs.30 lakhs to her and siphoned the remaining amount of Rs.1,20,00,000/- and thus cheated her.

3.4. With the above allegations, the revision petitioner lodged a complaint with the Inspector of Police, P2, Otteri Police Station, Chennai, and since no action was taken by the police, she approached the X Metropolitan Magistrate, Egmore, by way of filing a petition under Section 156(3) Cr.P.C. in Crl.M.P. No.18079/2023 as stated above.

3.5. Learned X Metropolitan Magistrate, Egmore, dismissed the said petition by observing thus:



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"3. The gist of the averments in the petition shows that the petitioner allege that the above accused fraudulently created documents as if the petitioner is a partner of a firm by name M/s. EDU INFOTECH and obtained the signature of the petitioner in partnership deed and memorandum of understanding, based on which they availed bank loan of Rs,1,50,00,000/- and paid the petitioner Rs.30,00,000/- and cheated the remaining loan amount. The consideration of the records shows that the petitioner have executed partnership deed and have executed a memorandum of understanding to avail loan for Rs.1,50,00,000/- and have also executed documents in favour of the Bank, as such the documents on record shows that the dispute is between partners and the documents did not make out the essential ingredients for the offence of cheating.



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4. In view of the above discussion, as the documents on the record shows that the petitioner has entered into a partnership agreement and have executed a memorandum of understanding to mortgage the petitioner property and have also executed mortgage in favour of Bank, the petitioner has failed to show the deception or fraudulent or dishonest act on the part of the accused for the alleged offence of cheating."

3.6. Aggrieved by the said orders, the present Criminal Revision is filed.

4. Mr.K. Venkateswaran, learned counsel for the revision petitioner contended that the revision petitioner is an illiterate and that she had signed all the documents without knowing the contents thereon. His further contention is that the revision petitioner has made specific allegations against the accused that they have cheated her to the tune of Rs.1,20,00,000/- and both the police as well as the Metropolitan



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Magistrate did not take this aspect into consideration. He also drew the attention of this Court to the Memorandum of Understanding dated 07.08.2018 entered into between the revision petitioner and the accused C. Mahesh, wherein the revision petitioner's signature was obtained only in the first page. He also would contend that all the accused created a partnership firm in the name and style of M/s. EDU INFOTECH by obtaining the signature of the revision petitioner taking advantage of her illiteracy. He would therefore contend that the Inspector Police, P2, Otteri Police Station, Chennai, should be directed to register FIR against the accused.

5. Per contra, Mr.R.Vinothraja, learned Government Advocate (crl.side) would contend that the trial court, after analysing the entire records, had rightly dismissed the petition filed by the revision petitioner and therefore no interference is warranted by this Court and prayed for dismissal of the present Criminal revision.



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6. At the outset, it may be observed that the revision petitioner had admitted that she went to Vijaya Bank and signed the loan document after mortgaging her property at Door No.22 (Old No.11/2), Ramanajulu Garden Street, Permbur Barracks Road, Chennai 600 012. However, her contention is that she received only a sum of Rs.30 lakhs and that the remaining amount of Rs.1,20,00,000/- was siphoned by the accused persons. The revision petitioner had further contended that she signed certain documents by going over to the office of Sub Registrar, Purasawalkam, and that she was not aware of the contents of those documents. The revision petitioner though had contended that she is an illiterate, she must have taken care to know the contents of the documents which she is signing. It is settled law that a person of full age and understanding cannot be heard to say that he/she signed a document without knowing the contents thereon. Though in the Memorandum of Understanding dated 07.08.2018 the signature of the revision petitioner does not find place in all the pages, it is to be seen that the present revision petitioner with her eyes open had signed the loan documents by going over to Vijaya Bank, Egmore Branch. The loan amount would



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have been credited only to the bank account of the revision petitioner.

She had not produced her statement of accounts showing that she did not receive the entire amount of Rs.1,50,00,000/-. A perusal of the reconstitution of partnership firm dated 25.07.2017 shows that the present revision petitioner is one of the partners and all the partners joined together to do the business of trading of computers, mobile phones, tablets, CCTV camera and inverter battery and accessories, etc., in the name and style of M/s. EDU INFOTECH. Clause No.12 shows that they can borrow loans for improving their business from the bank or from outsiders. The revision petitioner feigns ignorance about the creation of the partnership firm M/s. EDU INFOTECH. As already observed, the revision petitioner is a person of full age and understanding and she cannot state that she signed documents without knowing the contents thereon.

7. In the circumstances, if the revision petitioner feels that the accused have siphoned off Rs.1,20,00,000/- from out of the total amount of Rs.1,50,00,000/-, she has to approach a Civil Court, if so advised. No



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criminal colour can be given to a civil dispute and thus the orders passed by the learned X Metropolitan Magistrate, Egmore, Chennai cannot be assailed.

8. In the result,

- i. the Criminal Revision Case is dismissed.
- ii. The orders dated 09.06.2023 passed in Crl.M.P.No.18079 of 2023, on the file of X Metropolitan Magistrate, Egmore, is confirmed.

26.09.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga

To

The X Metropolitan Magistrate, Egmore.



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R. HEMALATHA, J.
bga

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