



CrI OP No.23134 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.23134 of 2019
and
CrI.M.P.No.12122 of 2019

S. Kalaiselvan

... Petitioner / A3

Versus

1. The State Rep. by the
Inspector of Police,
City Crime Branch I,
Chennai.
Crime No.262 of 2018

... 1st Respondent / Complainant

2.T. P. Damodaran

... 2nd Respondent / Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the impugned FIR in Crime No. 262 of 2018 on the file of the 1st respondent and to quash the same.

For Petitioner : Mr. John Sathyan, Senior Counsel
For Mr. J. N. Nareshkumar

For R1 : Mr. A. Damodaran,
Additional Public Prosecutor

For R2 : Mr. D. Muthuselvam



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ORDER

This Criminal Original Petition has been filed seeking to quash the FIR in Crime No.262 of 2018 on the file of the 1st respondent filed for the alleged offences under Sections 406, 420, 506(i) and 120B of IPC.

2.It is alleged in the impugned FIR that the defacto complainant wanted to raise money by mortgaging his property; that the accused represented to him that since he was aged, it is better if he become a partner in a partnership firm and thereafter obtain a loan; that the 2nd respondent entered into a partnership deed bearing Doc.No.11 of 2016; that as a partner the 2nd respondent applied for a loan and also executed memorandum of deposit of title deeds; that the accused who promised to pay Rs.10,00,000/- as loan did not give any money to the 2nd respondent; that the 2nd respondent later came to know that his property was mortgaged and a loan of Rs.1 Crore was obtained by the accused dishonestly; that when the 2nd respondent approached the accused, they abused him in filthy language and told him to approach the Bank for redeeming the property by paying Rs.1 Crore.



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3.The learned Senior Counsel for the petitioner submitted that there is no allegation in the impugned FIR to suggest that the petitioner had participated in the alleged conspiracy. The only allegation is that out of the amount received as loan, some payments were transferred to the account of the petitioner. The learned Senior Counsel submitted that this relates to a different transaction and this was repayment of the money lent to the 4th accused. The learned Senior Counsel further submitted that the impugned complaint is malafide and only to arm twist this petitioner and to extract money from him. Hence, he prayed for quashing of the impugned proceedings.

4.Heard the learned counsel for the 2nd respondent and the learned Additional Public Prosecutor, who submitted that it is a case of conspiracy and only an investigation would reveal the truth and prayed for dismissal of the quash petition.

5.The submission of the learned Senior Counsel for the petitioner that the petitioner is not involved in the conspiracy is factual. In such circumstances, this Court is of the view that it is desirable to allow the respondent police to conduct investigation and ascertain the role of the



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petitioner in the alleged offences. It is needless to say that the respondent police shall conduct the investigation fairly after giving opportunity to the petitioner to explain his case. The respondent police shall file a final report within a period of four weeks from the date of receipt of a copy of this order.

6. With the above observations, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

22.06.2023

smv

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Inspector of Police,
City Crime Branch I,
Chennai.

2. The Public Prosecutor
High Court of Madras.



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SUNDER MOHAN, J

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