



Crl.O.P.No.26465 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2023

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.26465 of 2019 and
Crl.M.P.No.14162 of 2019

M.Shrinath

...Petitioner

Vs.

1. State rep. by
the Inspector of Police,
E3, Teynampet Police Station,
Chennai city.
Crime No.528 of 2019.

2. Y.R.Santhi

...Respondents

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.528 of 2019 on the file of the 1st respondent Police, quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.N.Manoharan
For 1st Respondent : Mr.A.Gopinath,
Government Advocate (Crl. Side)
For 2nd Respondent : Mr.D.Ashok kumar

ORDER

This Criminal Original Petition is filed to quash the FIR in Crime No.528 of 2019 on the file of the 1st respondent Police.

1/6



WEB.COM

2. The petitioner is A3. The 2nd respondent / defacto complainant and the petitioner are known to each other. They have a common friend called Kamalesh who is A1 and his father is A2.

3. The case of the prosecution is that the petitioner came along with A1 and told the 2nd respondent that they are going to a new venture and for that each of them was going to invest a sum of Rs.10 lakhs with due share and Sudharson should also join with them. Sudharson told about this to 2nd respondent and she clarified it with some elder persons like A1's father who is A2. A2 also encouraged the 2nd respondent to invest money on behalf of her son Sudharson. So the 2nd respondent gave a sum of Rs.10 lakhs and that has been acknowledged by A1. But thereafter no returns have been made and the amount was not returned. Hence, the 2nd respondent has given a criminal complaint.

4. The learned counsel for the petitioner submitted that the petitioner has not committed any offence as alleged by the 2nd respondent; his limited role is to introduce A1 to the 2nd respondent; he has not played any active



role in obtaining the alleged amount from the 2nd respondent / defacto complainant and his son Sudharson. Just because the petitioner introduced A1 to the 2nd respondent, he cannot be considered that he has committed the criminal offence.

5. The learned Government Advocate (Crl. Side) submitted that the petitioner accompanied with A1 and represented before the 2nd respondent that he has also involved in the alleged business done by A1 and there is a scope for better returns. Since there are prima facie materials to show the overt act against the petitioner, the investigation should be allowed to go on.

6. The records would show that the friends of same age group namely A3 and A1 had tried to tune the 2nd respondent to invest money on behalf of his son for their new venture. The 2nd respondent / defacto complainant had clarified the seriousness of the business with A1's father and he also clarified that there is a risk involved in the investment. However, they had given assurance for better returns and hence the 2nd respondent invested a sum of Rs.10 lakhs. But, as assured, no returns were given. The allegations



Crl.O.P.No.26465 of 2019

are sufficient to make out a case to presume an offense of cheating and hence it cannot be concluded that A3 has no overt act and he is not the beneficiary of the crime proceedings. Only if a detailed investigation is allowed to be done, the real facts as to whether A3 had intentionally joined A1 to grab money from the 2nd respondent by using the name of her son, can come to light. Since it has been stated that the petitioner had represented the 2nd respondent's son Sudharson that he has also invested money in the said business, I feel there are *prima facie* reasons to enquire the petitioner during the course of investigation. Hence I do not feel, it is appropriate to quash the proceedings at the threshold stage itself.

7. Hence, this Criminal Original Petition is dismissed. Since the A1 and A3 and the 2nd respondent's son are youngsters, the prosecution should do a fair investigation to find out the real intention of the youngsters in investing money. Consequently, connected miscellaneous petition is closed.

12.01.2023

vum
Index:yes/No
Speaking order / Non speaking order

4/6



WEB COPY

To

1. The Inspector of Police,
E3, Teynampet Police Station,
Chennai city.
2. The Public Prosecutor,
Madras High Court,
Chennai.



CrI.O.P.No.26465 of 2019



WEB COPY



Crl.O.P.No.26465 of 2019

R.N.MANJULA,J.

vum

Crl.O.P.No.26465 of 2019 and
Crl.M.P.No.14162 of 2019

12.01.2023