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CrI.O.P.No.26683 of 2019

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 31.01.2023**

**CORAM**

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

**CrI.O.P.No.26683 of 2019 and**  
**CrI.M.P.No.14274 of 2019**

Manjula Devi

... Petitioner / Accused

Vs.

1.State Rep by  
The Inspector of Police,  
Kothagiri Police Station,  
Kothagiri,  
Nilgiris District.

... Respondent / Complainant

2.Javid Sait

... Respondent/Defacto Complainant

**Prayer :** Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records of FIR in Crime No.984 of 2017 dated 14.12.2017 on the file of the first respondent and quash the same.

For Petitioner  
For Respondents

... Mr.N.Ponraj  
... Mr.A.Gopinath,  
Govt. Advocate (CrI.Side) for R1  
Mr.S.Rajmahesh for R2



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**ORDER**

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This Criminal Original Petition has been filed to call for the records of FIR in Crime No.984 of 2017 dated 14.12.2017 on the file of the first respondent and quash the same.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent and the learned counsel for the second respondent.

3. The petitioner is the sole accused. The second respondent is doing the business of selling the used cars. The second respondent has given a complaint by alleging that the petitioner had agreed to purchase a Renault Duster car bearing Registration No.TN 43 E 4226 for a sale consideration of Rs.8,00,000/- on 28.09.2016. The petitioner had given an advance amount of Rs.50,000/- and agreed to pay the balance sum of Rs.7,50,000/- within 20 days. By believing the assurance given by the accused, the second respondent had given the car to her. But as agreed, the petitioner did not pay the balance sale consideration of Rs.7,50,000/-. Hence the



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second respondent had given a complaint before the respondent police.

When the complaint was taken up for enquiry on 08.01.2017, the petitioner had agreed to pay the balance amount within two days. However, she had not repaid the balance sale consideration and neither the petitioner had chosen to give back the vehicle. On the above allegation, a case has been registered against the petitioner in Crime No.984 of 2017 for the offence under Section 420 of IPC.

4. The learned counsel for the petitioner submitted that the petitioner is only a mediator and it is not within the knowledge of the petitioner whether the balance sale consideration as agreed before the respondent police was paid by the buyer or not; since the matter relates to money transaction in respect of the sale of the car, no criminal action can be taken against the petitioner.

5. The learned Government Advocate (Crl.Side) submitted that the petitioner is the one who had entered into the deal with the second respondent and agreed to pay a sum of Rs.8,00,000/- towards the sale



consideration of the car; after having taken away the car by paying the advance of Rs.50,000/-, the petitioner did not pay the balance amount and that would show the intention of the petitioner from the inception to cheat the second respondent.

6. The allegation in the FIR would show that the car belongs to the friend of the second respondent and the second respondent acted as an agent to sell the car. So far as the second respondent is concerned, it is the petitioner who entered into a deal with him for the sale of the Renault Duster car for a sum of Rs.8,00,000/-. On the day when the deal was made, a sum of Rs.50,000/- was paid as advance money and the petitioner had taken away the car by assuring that the balance amount will be paid within 20 days.

7. In fact, the petitioner ought not to have taken the car without paying the entire sale consideration. If the second respondent has allowed the petitioner to take away the car by paying only the advance amount, it is only by believing the words of the petitioner that she would pay the



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balance money. If for any reason the petitioner could not pay the balance amount, she ought to have handed over the car back to the second respondent. The petitioner neither returned the car nor paid the balance amount, but had chosen to take the car by paying a sum of Rs.50,000/- out of total consideration of Rs.8,00,000/-. The conduct of the petitioner would show that she had the intention of cheating the second respondent from the inception of the deal. Hence the first respondent is right in believing that *prima facie* case has made out on the complaint made by the second respondent.

8. When the allegations made in the complaint and the conduct of the petitioner would show sufficient materials to make out a case of cheating, I do not find any reason to stop the investigation by any undue presumption in favour of the petitioner. This is not the case where the powers of this Court should be exercised under Section 482 of Cr.P.C to quash the proceedings against the petitioner.



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**9.** In the result, this Criminal Original Petition is dismissed and the first respondent police is directed to complete the investigation within a period of one month from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

**31.01.2023**

Index: Yes/No  
Internet: Yes/No  
gsk



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To  
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- 1.The Inspector of Police,  
Kothagiri Police Station,  
Kothagiri,  
Nilgiris District.
- 2.The Public Prosecutor,  
High Court, Madras.



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**R.N.MANJULA ,J.**

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