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CRL.O.P.No.30541 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2023

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA

Crl.O.P.No.30541 of 2019

and

Crl.MP.Nos.16557 & 16559 of 2019

1. Pasuvaraj @ Kumar

2. Janagi

3. M.Thirunavukarasu

.. Petitioners/Accused

Versus

1.State By

The Inspector Of Police ,
District Crime Branch,
Salem District,
Crime No.11/2018.

2.S.Chitra

... Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to the C.C.No.352/2019 on the file of the Learned Judicial Magistrate VI Salem and quash the same.

For Petitioners	:	Mr.R.Krishnan
For Respondents-1	:	Mr.A.Gopinath
		Government Advocate(crl.side)
For Respondent-2	:	M.R.Jothimanian



ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.352/2019 on the file of the Learned Judicial Magistrate VI, Salem.

2. The petitioners are arrayed as A1 and A2 in this case. On the complaint given by the second respondent, a case has been registered in FIR in Cr.No.11/2018 for the offences under Sections 420, 294(b) and 506(i) IPC. After completing the investigation, the charge sheet has also been filed and it has been taken on file.

3. Heard the submissions made by the learned counsel on either side and perused the materials available on record.

4. The learned counsel for the petitioners submitted that the complaint has been made to recover a time barred debt; even according to the petitioner there is a Memorandum of Understanding dated 05.03.2017 and the terms of the said Memorandum of Understanding would show that it is a matter which is purely contractual in nature; without any basis a criminal complaint has been given as a short cut method to recover the alleged amount dues.



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5. The learned Government Advocate(crl.side) appearing for the first respondent police submitted that the materials would show that the petitioners have acted with some criminal intention to cheat the second respondent after having received a huge sum on the assurance that they would include her as partner in the furniture business of the petitioners in the name and style 'Janaki Enterprises'; this petitioners have influenced the second respondent to give large amount to them and then cheated her.

6.The records would show that the petitioners and the second respondent had entered into the Memorandum of Understanding on 05.03.2017. The said agreement itself shows that a sum of Rs. 35,00,000/- [Rupees Thirty five lakhs only] have been given to the petitioners on various dates in order to expand the business of the petitioners run in the name and style of ' Janagi Enterprises' by including the second respondent also as partner. But the second respondent has not been added as a partner and the amount was also not returned to her. So the second respondent has filed a complaint by alleging the intention of the petitioner to cheat her.

7.The learned counsel for the petitioners submitted that the agreement itself is a concocted one. On the face of it and from the materials collected



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during investigation, it is seen that they would support the case of the prosecution. Only if the parties are allowed to participate in the trial the fact about the genuineness of the agreement, the fact about the money paid to the petitioners by the second respondent and the intention of the petitioners can be proved. In view of the above stated reasons, I feel it is not a fit case which should be quashed for the reason that it does not disclose any case. However the learned Judicial Magistrate VI, Salem is directed to complete the proceedings in C.C.No. 352/2019 within a period of three months from the date of receipt of copy of this order.

In the result, the Criminal Original Petition is **dismissed**.
Consequently, connected miscellaneous petitions are dismissed.

04.01.2023

Index: Yes/No
Internet: Yes/No
Speaking Order/Non speaking Order
Neutral: Yes /No
jrs



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To:

1. The Inspector Of Police ,
District Crime Branch,
Salem District.
- 2.The Public Prosecutor,
High Court, Madras.

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R.N.MANJULA, J.,

jrs

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