



CrI.O.P.No.30014 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.30014 of 2019

and

CrI.M.P.Nos.16205 of 2019 and 1064 of 2020

1. C.Selvarani

2. M.Vijayakumar

... Petitioners

Vs.

1. State rep by

Inspector of Police (Crime),
MGR Nagar Police Station,
Chennai
(Crime No.717 of 2019)

2. Kowsalya

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to Crime No.717 of 2019 pending on the file of the respondent police and quash the same.



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For Petitioner : Mr.A.Suresh Sakthi Murugan

For Respondent-1: Mr.A.Damodaran

Additional Public Prosecutor

For Respondent-2: Mr.D.Prasannakumar

ORDER

This petition has been filed to quash the First Information Report in Crime No.717 of 2019 for the offence under Section 420 I.P.C on the file of the respondent-Police.

2.It is stated in the final report that the Defacto-complainant had invested money in a chit fund run by the petitioners and though on couple of occasions earlier, the petitioners had paid the chit amount as promised, but in subsequent occasions, they failed to pay the chit amount. Further, the de-facto complainant had also given a loan of Rs.2,30,000/- to the petitioners, which they failed to re-pay. Hence, the complaint had been filed requesting the police to recover the sum of Rs.15,00,000/- from the petitioners.



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3.The learned counsel for the petitioners submitted that C.S.R.No.538 of 2018 was issued based on the complaint lodged by the 2nd respondent/defacto-complainant on 03.12.2018 and the same was closed, since the transactions were civil in nature and no offence of Section 420 I.P.C is made out. On the basis of the very same complaint, the F.I.R was registered in Crime No.717 of 2019 on 01.10.2019. Hence, prayed for quashing of the F.I.R.

4.The learned counsel for the 2nd respondent/De-facto complainant would submit that since the petitioners promised to make the payment to the defacto-complainant, earlier C.S.R was kept pending. However, when they failed to keep up the promise, F.I.R was registered.

5.The learned Additional Public Prosecutor appearing for the 1st respondent would submit that the allegation in the impugned F.I.R discloses the offence under Section 420 I.P.C against the petitioners and prayed for dismissal of the quash petition.



6.A reading of the F.I.R would show that the petitioners and the

De-facto complainant are known to each other. They have been doing business together for years. The Defacto Complainant and her friends earlier deposited money in the chit fund run by the petitioners. It is also stated that the petitioners had paid a portion of the amount in the chit for Rs.5,00,000/- taken by them. Further, the allegation is that they have been delaying the payment of the balance amount. That apart, the allegation is that the de-facto complainant had lent another sum of Rs.2,30,000/- to the petitioners, which has not been paid. The entire allegation appears to be a case of breach of promise and contract and there is no allegation to suggest that the petitioners have made out a case of false representation. If there are any dues payable by the petitioners, the Defacto complainant ought to have recovered it by filing a civil suit. There is no such civil suit filed in the instant case. A mere breach of promise and non return of money lent, would not amount to offence of cheating.



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7. For all the above reasons, the impugned F.I.R is quashed and the Criminal Original Petition stands allowed. Consequently, the connected Miscellaneous Petitions are closed.

15.03.2023

Internet: Yes

Index: Yes/No

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To

1. The Inspector of Police (Crime),
MGR Nagar Police Station,
Chennai
2. The Public Prosecutor,
High Court of Madras.



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SUNDER MOHAN, J.,

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