



Crl.O.P.(MD)No.2999 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2023

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.2999 of 2020

Babu Hussain

... Petitioner

Vs.

1.State rep.by
The Inspector of Police,
Airport Police Station,
Trichy City.
(Crime No.21 of 2017)

2.Selvakumar

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to C.C.No. 456 of 2019 pending on the file of the learned Judicial Magistrate No.VI, Tiruchirappalli and quash the same as against the petitioner' is concerned.

For Petitioners : Mr.P.Kalaiyarasi Bharathi

For R1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. Side)



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For R2 : No Appearance

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ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.456 of 2019 pending on the file of the learned Judicial Magistrate No.VI, Tiruchirappalli.

2.According to the petitioner, the second respondent herein lodged a complaint alleging that he entered into an agreement with A1 and A2 and paid Rs.1 Lakh and obtained various documents relating to some plots, which are intended to be purchased by him and his parents. Subsequently, it reveals that the plots, which are intended to be purchased by him, actually not belongs to this petitioner. Hence, the defacto complainant demanded to repay the amount, but the accused persons refused to do the same. In fact, the petitioner has not committed any offence as alleged by the prosecution. Based on the above said complaint, the first respondent registered FIR in Cr.No.21 of 2017 dated 06.01.2017 and after elaborate investigation, the first respondent filed



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final report for the offences under Sections 420, 294(b), 506(ii) r/w 109 IPC and the learned Judicial Magistrate No.VI, Tiruchirappalli has taken cognizance in C.C.No.456 of 2019. Even according to the complaint, the matter arises out of an agreement and thereby, the offence are not made out. Hence, charge sheet in C.C.No.456 of 2019 is liable to be quashed.

3.No counter was filed by the respondents. The second respondent appeared through counsel and thereafter, none appeared on behalf of the second respondent.

4.The learned counsel appearing for the petitioner would contend that the second respondent had given complaint and based on the same, the first respondent registered FIR. Without proper investigation, the first respondent filed final report and the learned Magistrate has also taken cognizance of the same in C.C.No.456 of 2019. In fact, the petitioner has not committed any offence and he has been falsely implicated in this case. Hence, the charge sheet is liable to be quashed.

5.The learned Government Advocate(Crl.side) appearing for the



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first respondent would contend that the accused persons entered into agreement with the second respondent and obtained money from him and thereafter, they failed to repay the amount. Hence, the second respondent preferred the complaint before the first respondent and the first respondent registered FIR in Cr.No.21 of 2017. After elaborate investigation, the first respondent filed final report and the same was also taken on file by the learned Magistrate in C.C.No.456 of 2019, since there are prima facie materials available as against the accused persons. Hence, at this stage, the petitioner cannot seek any remedy through this petition before this Court.

6.Heard both sides and perused the materials available in the records.

7.It is admitted fact that there is an agreement between the parties and as per the agreement some amount was paid to the accused persons to purchase property and thereafter, due to some dispute between them, the said agreement was not acted upon. Based on the complaint given by the second respondent, the first respondent registered FIR and



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investigated the matter and filed final report. As per final report, prima facie materials available as against the petitioner to proceed the case further and now, the case is pending for trial. Since already the first respondent has filed final report and the same was taken on file by the learned Magistrate, this Court cannot invoke its inherent power under Section 482 Cr.P.C., at this stage and as per guidelines given by the Hon'ble Supreme Court of India in a case of *M/s Neeharika Infrastructure Pvt. Ltd Vs. State of Maharashtra and others*, this Court need not interfere with the case at this stage. Hence, this petition is liable to be dismissed.

8.At this juncture, the learned counsel appearing for the petitioner requested this Court to dispense with the personal appearance of the petitioner before the trial Court. In this context, it is for the trial Court to decide whether the presence of the petitioner is required or not. If any application filed by the petitioner and the same may be considered by the trial Court, in accordance with law. However it is seen that the case is pending from the year 2019 without any progress and hence, the learned Judicial Magistrate No.VI, Tiruchirappalli is directed to complete the



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trial proceedings in C.C.No.456 of 2019 within a period of six months
from the date of receipt of a copy of this order.

9.In the result, with the above observations and directions, this
criminal original petition is disposed of.

04.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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WEB COPY To

- 1.The Judicial Magistrate No.VI,
Tiruchirappalli.
- 2.The Inspector of Police,
Airport Police Station,
Trichy City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL,J.

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