



Crl.O.P.(MD)No.4617 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2023

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.4617 of 2020

and

Crl.M.P.(MD)No.2627 of 2020

1.A.Mayilvahanan

2.A.Umaparvathi

3.S.Sivasunder

... Petitioners

Vs.

1.The State rep.by
The Inspector of Police,
City Crime Branch,
Tirunelveli City.
(Crime No.20 of 2020)

2.T.Edison

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pertaining to the case in Crime No.20 of 2020 on the file of the Inspector of Police, City Crime Branch, Tirunelveli City and quash the same as against the petitioners.

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For Petitioners : Mr.S.Ramasundarvijaypa
for M/S.Veera Associates

For R1 : Mr.R.M.Anbunithi,
Additional Public Prosecutor

For R2 : Mr.R.J.Karthick

ORDER

This criminal original petitioner has been filed to quash the First Information Report in Cr.No.20 of 2020 on the file of the Inspector of Police, City Crime Branch, Tirunelveli City as against the petitioners.

2.According to the petitioners, the second respondent had given complaint before the first respondent and based on the complaint, the first respondent registered in Cr.No.20 of 2020 for the offence under Sections 406, 418 and 420 IPC. The prosecution case is that the occurrence took place between 31.12.2018 and 04.02.2019. The first petitioner is the realtor by profession and he is also in the very same field and as such they have developed acquaintance each other. The second



petitioner is the mother of the first petitioner and the third petitioner is his brother-in-law. While so, during 2018, the first petitioner has informed the defacto complainant that he started a foreign currency exchange business and if he invested in such business, the petitioner would return the same along with 100% interest. Further, the first petitioner is said to have induced the second respondent to bring more investors and that apart, he has also requested the defacto complainant to look after the day today affairs of his Tirunelveli Branch. As the defacto complainant agreed for the same. In the name of Ace Capital in Tirunelveli, the first petitioner's business has been started at his instance and during such period, between 31.12.2018 and 04.02.2019, totally a sum of Rs.6,15,10,000/- through banking transaction and, a sum of Rs.3,50,00,000/- was paid by way of cash. The above said money was collected from various persons and subsequently, made use of the first petitioner's business as investment. It is further alleged that the first petitioner has not acted as per his assurance and he has not only given profit money but also failed to return the invested money. Whenever, the second respondent questioned about the same, the first petitioner used to give evasive replies. When the second respondent demanded money, the



petitioners and others demanded a sum of Rs.45,00,000/- and if it is given, they would solve the problem and as such, the lock prevailed over the disbursal of the profit would be released. Believing the same, from 01.07.2019 till 17.07.2019, the second respondent has paid the above said amount. Even after receipt of the above said amount, the petitioners failed to return the money as promised by them. Hence, the second respondent lodged the complaint. In fact, at any event, the allegations levelled by the second respondent cannot be said to have made out the offences, for which FIR was registered and hence, FIR is liable to be quashed.

3.No counter was filed by the respondents.

4.The learned counsel appearing for the respondent would contend that based on the false complaint given by the second respondent, the first respondent registered FIR. Even as per the contention of FIR, the defacto complainant also involved in the said business and the petitioners invested the money in the business and due to loss caused to them, they are unable to repay the money and there is no intention to cheat anybody.



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The second respondent having participated in the business, lodged the present false complaint and based on the same, the first respondent registered FIR. Therefore, the impugned FIR is liable to be quashed.

5.The learned counsel appearing for the second respondent would contend that more than 130 persons invested in the petitioner's company and more that Rs.10 Crores involved in this case and the petitioners have cheated the above said depositors. The case is at FIR stage only. At this stage, this petition is liable to be dismissed.

6.The learned Additional Public Prosecutor appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent registered FIR and thereafter, the case was transferred to the Economic Offences Wing in Cr.No.2 of 2023. That apart, two other cases also registered and the same are pending for investigation. In this case, huge amount is involved. The petitioners and others cheated more than 130 persons to the tune of more than Rs.10 Crores and thereby, this case needs elaborate investigation. Hence, this petition is liable to be dismissed.



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

8.On perusal of records reveals that based on the complaint given by the second respondent, the first respondent registered FIR. As per contention of FIR, huge amount involved in this case and now, case is only at initial stage. At this stage, this Court need not interfere with the investigation of the first respondent. 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. Considering the quantum of amount involved in this case and considering the nature of the offences, this Court is declined to quash the FIR, at this stage.

9.In view of the above discussions, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

16.08.2023

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



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Tirunelveli City.

- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL,J.

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