



Crl.R.C.(MD).No.347 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 04.12.2023

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.347 of 2021
and
Crl.M.P(MD).No.3531 of 2021

1. R.Senthil Kumar

2. A.Kalaichelvan

... Petitioner / Accused 1 & 3

Vs.

The Inspector of Police,
Central Crime Branch,
Madurai City,
Madurai.

... Respondent /Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for records and set aside the order dated 12.02.2021 passed in Cr.M.P.No.123 of 2017 in C.C.No.150 of 2010 on the file of the Judicial Magistrate Court I, Madurai by allowing this Criminal Revision Case.

For Petitioners : Mr.Y.Prakash

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor



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ORDER

The petitioners have filed this Criminal Revision Case to set aside the order dated 12.02.2021 passed in Cr.M.P.No.123 of 2017 in C.C.No.150 of 2010 on the file of the Judicial Magistrate Court I, Madurai.

2. The case of the prosecution is that the first petitioner namely Senthilkumar, who is A1 in the above case, had approached the defacto complainant namely Deepa and promised her getting a job in UCO Bank that since he was running Sri Ramachandra Seva Trust, he could get a job for her in UCO Bank. The defacto complainant gave a sum of Rs.1,43,000/- to the first accused. As far as the second petitioner is concerned, he coaxed the defacto complainant that since A2 is the former employee, he would arrange job for her in the UCO Bank and the appointment order would be given by the officials of the bank from Calcutta. Thereafter, neither they have returned the money nor arranged a job. Hence, the defacto complainant gave a complaint before the respondent Police. On the basis of the complaint given by the defacto complainant, the respondent Police registered the case in Crime No.36 of 2008 for the offences under Sections 420 and 120(b) of IPC, on 27.06.2008.



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Thereafter, the final report was filed and the same was taken on file in C.C.No. 150 of 2010, by the Judicial Magistrate Court I, Madurai.

3. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondent Police.

4. The learned counsel appearing for the petitioners submitted that the petitioners filed discharge petition contenting that no sufficient materials were collected by the prosecution to prove the job racketing as alleged in the final report. He further submitted that the investigating agency ought to have collected the documentary evidence to prove the case of the prosecution and also to support the version of the defacto complainant. Without any documentary evidence, the petitioner is entitled to discharge. More particularly, to prove the handing over the certificate and other document are concerned, the prosecution ought to have filed the necessary documents and produced the same along with the final report. The learned counsel appearing for the petitioners relied upon the Judgment of the Honourable Supreme Court in the case of ***Chanchalpati Das Vs. The State of Bengal and Another*** reported in ***CDJ 2023 SC 508***. In the absence of any of the documentary evidence, mere prosecution on the basis of



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161 Statement has no legs to stand. He further submitted that statement of the witnesses alone are not sufficient to frame necessary charges against the petitioner for job racketing case. Hence, he seeks for dismissal of the petition in Cr.M.P.No.123 of 2017.

5. The learned Additional Public Prosecutor appearing for the respondent Police submitted that it is a case of job racketing and the accused persons also collected money from various persons. In this regard, a complaint has been registered against the accused persons in Crime No.36 of 2008 for the offences under Sections 420 and 120(b) of IPC, on 27.06.2008. After the investigation, the final report has been filed before the Judicial Magistrate Court I, Madurai, and the same has been taken on file in C.C.No.150 of 2010. The respondent Police filed the final report against the petitioners alleging that they all have conspired together and cheated number of listed witnesses in the final report in the case of job racketing. The respondent police also filed counter affidavit stating that sufficient materials were collected. Apart from that the Education certificates are in the custody of the accused and the sufficient material is available to prove the case of prosecution. The learned Additional Public Prosecutor on instructions submitted that the learned trial judge correctly



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dismissed the discharge petition holding that sufficient materials are available to prosecute the case against the petitioners. Hence, he seeks for dismissal of this petition.

6. This Court has considered the rival submissions made by both parties and perused the records and also the precedents relied upon by them and the impugned order.

7.The case of the prosecution is that the petitioners and other accused conspired together and collected huge amount from number of the listed witnesses with false promise to get government job. The investigating agency collected abundant incriminating materials to frame the charges. More than 33 listed witnesses clearly stated that all the accused collected money upon making the false promise to get government job in the UCO bank. Therefore, the Learned Trial Judge correctly dismissed the discharge petition. This court finds no merits in this petition.

8. Accordingly, the order passed by the Judicial Magistrate Court I, Madurai, in Cr.M.P.No.123 of 2017, in C.C.No.150 of 2010 dated 12.02.2021 is



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hereby confirmed and the Criminal Revision Case stands dismissed. The learned counsel appearing for the petitioners submitted that the petitioners are aged about more than 50 years and they are suffering from old age ailments. Hence, he requested this Court to dispense with the appearance of the petitioners before the trial Court during trial.

9. However, considering the old age ailments of the petitioners, this Court is inclined to accept the request of the petitioners. Hence, the appearance of the petitioners is dispensed with before the trial Court on all hearing dates except the following hearings:

- (i) The date of furnishing copies under Section 207 Cr.P.C, and initial questioning to answer the charges;
- (ii) The date of questioning under Section 313 Cr.P.C;
- (iii) On the date of Judgement.

9.1. The petitioners are directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates.

9.2. The petitioners shall not dispute the identity of the witnesses.

9.3. The petitioners shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of identification.



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9.4. If the petitioners adopt any dilatory tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India in *State of Uttar Pradesh Vs. Shambunath Singh*, reported in 2001 (4) SCC 667.

Consequently, connected miscellaneous petition is closed.

04.12.2023

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

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To

1. The Judicial Magistrate No.I,
Madurai.
2. The Inspector of Police,
Central Crime Branch,
Madurai City, Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
4. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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