BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 20/06/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.5085 of 2023
and
Crl.MP(MD)Nos.4495 and 4496 of 2023

Rathinavel : Petitioner/A1

Vs.

1.State rep. by
The Inspector of Police,
Kuruvikulam Police Station,
Tiruneveli District.
(In Crime No.135 of 2019) : R1/Complainant

2.Karuppayee : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the charge sheet, taken in CC No.14 of 2021 on the file of the Judicial Magistrate Court, Sankarankoil, Tirunelveli District, now Tenkasi District and quash the same in respect of the petitioner herein and pass such further or other orders.

For Petitioner : Mr.A.Ramesh

For 1st Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)

O R D E R

This criminal original petition has been filed seeking quashment of the case in CC No.14 of 2021 on the file of the Judicial Magistrate Court, Sankarankoil, Tirunelveli District, now Tenkasi District.

2.**The case of the prosecution in brief:**-

The de-facto complainant lodged a complaint stating that the first accused told him that he is running a business called 'REAL BLISS AGRO FARMS' at Srivilliputhur and A2 was working as Agent. They also informed that if they invest money, return will be double. On the basis of the above said promise given by the above said accused persons, Rs.90,000/- was paid for five years at the rate of 1510/- per month. The receipt was also given in form of bond. When the amount matured, he approached the complainant for money. At that time, they told that the Company is under loss and they will return the money after sometime, but failed to keep up the promise and started delaying payment of money. Later, he came to know that A2 played fraud by using the bond, which was taken from the original document in the form of Xerox. When that was enquired, A1 and A2 promised them that they will return the money soon. Later, the above said Company was found closed. Only at that time, he came to know that he was cheated. On the basis of the above said complaint, a case in Crime No.135 of 2019 was registered for the offence under section 420 IPC. After that, final report was filed and it was taken cognizance in CC No.14 of 2021 by the Judicial Magistrate Court, Sankarankoil, Tirunelveli District (Now Tenkasi District).

3.Seeking quashment of the same, A1 has filed this petition solely on the ground that even though, the allegation that was made in the FIR or final report makes as if fraud has been committed upon the de-facto complainant, he has taken Xerox copy of the original bond and issued as if it is the original to the de-facto complainant, received money and thereby cheated. That was done by A2 without his knowledge, for which, the petitioner cannot be held criminally liable for the forgery committed by A2.

4.Heard both sides.

5.A case of cheating and misappropriation. There is specific allegation in the complaint to the effect that A1 represented that he is running a business called 'REAL BLISS AGRO FORMS', Believing his words only, he deposited totally Rs.90,000/- for about five years at the rate of Rs,1,510/- per month.

6.It is also alleged that only A1 signed in the above said document. Like the de-facto complainant, several persons have been cheated by the accused.

7.During the course of investigation, it was found that totally 20 persons have been cheated in a like manner. All the victims belonged to below the poverty line category. It is also specifically stated that A2 was acting as Collection Agent for the above said Company. So, it is seen that A2 was acting as 'Collection Agent' and the Company was owned and run by A1, the petitioner herein, the contention that without his knowledge, A2 committed forgery as individual cannot be accepted. It is an factual issue, which cannot be taken into account by this court at this stage.

8.No material has been placed by the petitioner to show that even before the date of the above said collection of money by A2, the Company became defunct.

9.The entire CD has been called for and perused.

10.The bond in the form of letter Head Pad of the company owned by A1, we find the signature of the authorised signatory. We also find the seal of the Company. So when the bond is in the name of the Company owned by A1, that too containing the seal and signature of the authorised person, unless the petitioner is able to establish the fact that the Company has become defunct or non-existence, even before the date of collection of the money, as mentioned above, he cannot disown the criminal liability. As mentioned earlier, it is purely a factual issue. Without any basis, this quashment petition has been filed.

11.Whether A2 has misused the money of the Company or whether the above said collection of money was made by A2 on behalf of the Company run by A1 herein are all matters, which can be taken into account by the trial court. So, I find absolutely no merit in this petition.

12.In the result, this criminal original petition is **dismissed.** Consequently, connected Miscellaneous Petitions are closed.

20/06/2023

Index:Yes/No
Internet:Yes/No

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To,

1.The Judicial Magistrate,
Sankarankovil,
Tenkasi District.

2.The Inspector of Police,
Kuruvikulam Police Station,
Tenkasi Taluk.

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

G.ILANGOVAN, J

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