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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02/03/2023

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

**Cr1.OP(MD)No.3276 of 2019**  
**and**  
**Cr1.MP(MD)No.1847 of 2019**

Subashini : Petitioner/Sole Accused

Vs.

R.R.Usha : Respondent/Complainant

**Prayer:-** This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to CC No.33 of 2018 on the file of the Judicial Magistrate No.VI, Madurai and quash the same as illegal.

For Petitioner : Mr.K.Sivabalan

For Respondent : Mrs.C.R.Ponnuthai  
(Legal Aid Counsel)

**O R D E R**

This criminal original petition has been filed seeking quashment of the case in CC No.33 of 2018 on the file of the Judicial Magistrate No.VI, Madurai



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**2.It is a private complaint filed by the respondent with the following allegations:-**

The respondent is the mother-in-law of the petitioner and her son RR.Prasanthkumar died, on 08/04/2016. At that time, the respondent and the petitioner as well as the two sons of the deceased were the legal heirs. After the death of his son, this petitioner being the wife of the deceased alleged to have received Rs.7,00,000/- from the Insurance Company as nominee. After receiving money, she failed to pay the share to the respondent/complainant.

3.With these allegations, she filed a complaint under section 156(3) Cr.P.C before the Judicial Magistrate No.VI, Madurai. It was not forwarded to the police for enquiry and investigation. But the Magistrate chose to convert the same as a complaint under section 200 Cr.P.C and took cognizance by recording the statement of the complainant ictim and CC No.33 of 2018 was assigned. The petitioner was summoned.



4. Seeking quashment of the proceedings, this petition has been filed on the ground that absolutely, no ingredients of the offence, either under section 420 IPC or 406 IPC are attracted, since this petitioner received the death benefits only as a nominee of her deceased husband. So according to him, the ingredients are not attracted.

5. Finding that it is an issue between the mother and the daughter-in-law, the matter was referred to the Mediation and Conciliation Centre, attached to this Bench for amicable settlement. But it could not be settled. So it was referred back to the court. Since there was no appearance on the side of the respondent, legal aid counsel was appointed by this court to defend the case on behalf of the respondent.

6. Now coming back to the facts and circumstances, the respondent during the course of statement has stated that she was cheated by the petitioner.

7. The marriage between the petitioner and the first son of the respondent namely R.R. Prasanthkumar was



performed, on 11/04/2010. Because of the marriage, two children born to them. The deceased was working as Section Officer in Birla Sunlight Company. He died due to illness. After that, the petitioner went to her parental home along with child. Now she is living there. After that the petitioner filed a complaint seeking maintenance case against the respondent before All Women Police Station, Madurai Town, in the month of January 2017. During the course of enquiry in the above said complaint, the respondent came to know that the petitioner received Rs.7,00,000/- from the Insurance Company as a nominee of the deceased. Since the respondent is also a sharer in the above said estate of her son, she is entitled for a share amount. When she demanded the above said share amount, it was refused.

8. Reading of the above statement shows that this petitioner was appointed as a nominee by her deceased husband. This is also spoken by the Administrative Officer attached to the Life Insurance Corporation of India, City Branch, Madurai. He has stated that the policy No.747115691 belongs to the deceased R.R.Prasanthkumar and this petitioner was appointed as



nominee. A sum of Rs.1,17,800/- was disbursed to the petitioner, on 09/05/2016 through her Bank account. So it is seen that it was not Rs.7,00,000/-, but Rs.1,17,800/-. Being the nominee, this petitioner got every right to receive the amount. Of course the above said amount got to be shared among the first class legal heirs of the deceased. For that purpose, the respondent has to take sufficient steps for recovering the amount. But in-spite of that, she has chosen a wrong forum by filing the complaint, as if it is a case of misappropriation.

9.The trial court has also taken cognizance of the offence under section 420 IPC, in the facts and circumstances of the case, does not attract any of the ingredients. So the respondent has to work out her remedy through the civil process.

10.So, I find that initiation of the prosecution itself is a clear case of abuse of process of the court. On that score, the entire prosecution is liable to be quashed.



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11. In the result, this criminal original petition is **allowed**. The entire proceedings in CC No.33 of 2018 on the file of the Judicial Magistrate No.VI, Madurai, is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

02/03/2023

Index:Yes/No  
Internet:Yes/No  
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To,

The Judicial Magistrate No.VI,  
Madurai.



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**G. ILANGO VAN, J**

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02/03/2023



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