



Crl.RC.(MD)Nos.392 & 406 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2023

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THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.RC.(MD)Nos.392 & 406 of 2019
and Crl.M.P.(MD)Nos.5825, 5826, 5936 & 5937 of 2019

- 1.Satheeshkumar @ Saravanan
... Petitioner in Crl.R.C.(MD)No.392 of 2019
- 2.Sindhuja
- 3.Murugan
... Petitioners in Crl.R.C.(MD)No.406 of 2019

Vs.

The State rep.by
The Inspector of Police,
District Crime Branch,
Ramanathapuram.
Crime No.35 of 2014

... Respondent in both Crl.RCs.

COMMON PRAYER : Criminal Original Petitions filed under Section 397 R/W 401 of Cr.P.C., to set aside the order passed in Crl.M.P. No.2820 of 2015 in C.C.No.72 of 2015 on the file of the learned Judicial Magistrate No.2, Ramanathapuram dated 13.05.2019 in connection with Crime No.35 of 2014 on the file of the Inspector of Police, District Crime Branch, Ramanathapuram District.



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For Petitioner : Mr.M.Saravanan
(in Crl.R.C.(MD)No.392 of 2019)

For Petitioner : Mr.S.Palani Velayutham
(in Crl.R.C.(MD)No.406 of 2019)

For Respondent : Mr.M.Sakthi Kumar,
(in both Crl.RCs.) Government Advocate (Crl. Side)

COMMON ORDER

These Criminal Revision Cases have been filed to set aside the order passed in Crl.M.P.No.2820 of 2015 in C.C.No.72 of 2015 on the file of the learned Judicial Magistrate No.2, Ramanathapuram dated 13.05.2019 in connection with Crime No.35 of 2014 on the file of the Inspector of Police, District Crime Branch, Ramanathapuram District.

2.The petitioners herein filed Crl.M.P.No.2820 of 2015 alleging that a case has been filed as against the petitioners alleging that A1 induced the defacto complainant to joint partnership business. For that, on 04.12.2011, he paid Rs.5,00,000/- to A3. Again on 30.01.2012, he paid Rs.3,50,000/- to A3 and on 22.02.2012 he paid Rs.3,50,000/- to



A1 and on 11.09.2013 paid Rs.2,00,000/- to A2. In total, he paid Rs. 14,00,000/-. Thereafter, as promised by A1, they have not started the business and thereafter, when the defacto complainant asked to repay the amount, the accused did not repay the amount and thereby, committed the offence under Sections 406 and 420 IPC and FIR also registered by the respondent herein. After investigation, the respondent filed final report. The above said allegations are bald and it is pure civil in nature. The execution of the memorandum of understanding itself denied by the petitioner and even in the said document, there is no mention about the name of the company and it contains only receipt of the amount. Therefore, there is no prima facie materials to proceed with the case as against the petitioners for the offences under Sections 406 and 420 IPC.

3.The respondent filed counter in the said petition stating that A1 and the defacto complainant are friends. A1 was running company in the name of Air Magic and he induced the defacto complainant to run business in the name of Air Path and thereby obtained money from the defacto complainant and thereafter, they have not started any business and thereby, the accused have committed offences under Section 406 and



420 IPC. Thereafter, FIR was registered and after investigation, the first respondent filed final report as against all the accused. As per investigation and as per the records revealed that the accused obtained money from the defacto complainant and they did not repay the amount and also not started any business, thereby, there are prima facie materials available as against the petitioners and the case was elaborately investigated and as per investigation prima facie case made out and hence, this petition is liable to be dismissed.

4.After elaborate discussions, the trial Court has dismissed the discharge petition by holding that there are prima facie materials available as per the investigation. As per the statements recorded by the police during the investigation, the accused persons actively involved in the offence and thereby, prima facie case is made out and dismissed the petition.

5.As against the said order, these revision petitions filed on the ground that the dispute is civil in nature and in order to start business, agreement was entered between the parties and no criminal offences



attracted as against the accused. Since it is business transaction, no prima facie case made out and the trial Court failed to consider the same and thereby this petition has to be allowed.

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

7.According to the petitioners, they entered into business agreement and as per agreement they are unable to start the business and the same is civil in nature and no intention to cheat the defacto complainant. As per counter of the respondent, the petitioners induced to pay money to start a business and entered into agreement and huge amount was paid to the petitioners. After receipt of money, the petitioners neither started the business nor repaid the money. The entering into the agreement itself shows their intention to cheat the defacto complainant.

8.On perusal of records shows that the respondent police filed final report after elaborate investigation. As per final report, there are prima



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facie materials available to proceed with the case and after analysing the final report, the trial Court dismissed the discharge application by holding that there are prima facie materials available to frame charges as against the petitioners herein. This Court is also of the view that, there are prima facie materials available as against the petitioners to frame charges. The statements of the witnesses and the documents collected by the investigating agency discloses the prima facie case and further, merely because of entering into agreement alone cannot say it is civil in nature. Even in the nature of civil cases, criminal offences would attract and the same is matter of trial. At this stage, this court need not go into the test of validity of the documents and the statements of the witnesses.

9. Therefore, this Court finds no warrant to interfere with the order passed by the trial Court and these petitions are liable to be dismissed. Accordingly, these criminal revision cases are dismissed. Consequently, connected miscellaneous petitions are closed.

11.08.2023

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

- 1.The Judicial Magistrate No.2,
Ramanathapuram
- 2.The Inspector of Police,
District Crime Branch,
Ramanathapuram.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL,J.

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