BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :22.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

Crl.O.P.(MD).No.15347 of 2021
and
Crl.M.P(MD) No.8242 of 2021

Dr.T.Shanmuganathan ... Petitioner

Vs.

1. The Inspector of Police
   Medical College Police Station
   Thanjavur District

2. G.Alagappan

3. The Inspector of Police
   Pattukottai Town Police Station
   Thanjavur District ..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to the First Information Report in Crime No.881 of 2020 on the file of the first respondent pending disposal of the Criminal Original Petition.

For Petitioner : Mr.C.Selvaraj

For R-1 : Mr.M.Sakthikumar
Government Advocate(Crl.Side)

For R-2 : Mr.P.Edin Brough

O R D E R

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.881 of 2020 pending on the file of the first respondent police.

2. According to the petitioner based on the complaint given by the second respondent, the first respondent registered a case in Crime No.881 of 2020 for the offences under Sections 465,468 of IPC. The case of the prosecution is that the second respondent and 12 others had purchased a residential apartment at Raman Enclave Apartments and for the purpose of registration the aforesaid persons has given their KYC documents to one D. Balan building contractor and subsequently registration process was completed. Whileso notice was issued to the above said 12 persons from chit fund namely Thirumalai Thirumal Finance Limited to their address stating that an amount of Rs.50,000/- has been deposited on fixed deposit and stated to renew the same or else stated that withdraw the entire money along with interest. The second respondent has not deposited money on fixed deposit basis in the above said chit fund and the KYC documents of the second respondent and others have been forged by the petitioner as he was holding the post of Managing Director of the said chit fund. The petitioner has created forged documents and signature of the second respondent. Morever the petitioner has opened accounts to the second respondent as a mode of

introducer and it was renewed from the years 2016 onwards. So the second respondent issued letter to the chit fund stating that he was no way connected with the fixed deposit. hence the second respondent made complaint before the first respondent as against the petitioner and one D.Balan. Based on that complaint the First Information Report has been reregistered. Already the petitioner has given complaint before the police but they have not taken any action therefore he filed petition before the TANPID Court, Madurai and the court has forwarded the complaint to the Inspector of Police, Economic Offences Wing, Thanjavur for taking further action, but the police have not taken any action. The petitioner has not committed any offence and he already resigned from the management on 12.07.2019. The offences under Sections 465,468 of IPC would not attract therefore the pending First Information Report is abuse of process of law and thereby it is liable to be quashed.

3. No counter was filed by the respondents.

4. The learned counsel appearing for the petitioner would contend that this petitioner has not committed any offence and he has been falsely implicated in this case and he is no way connected with the said deposit in the name of the petitioner and others and he resigned his job from the Management in the year 2019 itself and thereby the First Information Report is liable to be quashed.

5. The learned counsel appearing for the second respondent would contend that this petitioner when he was working in the Thirumalai Thirumal Finance Limited as Managar and he forged the documents and signature of the defacto complainant and others with the help of one Balan. Apart from this they created forged documents and those documents are used by the petitioner and forged receipts were created in the name of the petitioner and other, thereby the second respondent has given complaint and now the investigation is in initial stage and thereby at this stage the First Information Report cannot be quashed and it is liable to be dismissed.

6. The learned Government Advocate(Crl.Side) appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent registered a case in Crime No.881 of 2020 for the offences under Sections 465,468 of IPC and the investigation is still pending. Thereafter the investigation was transferred to the third respondent and now the third respondent is investigating the case . The offences are grave in nature and at this stage this Court cannot scuttle the investigation and hence the petition is liable to be dismissed.

7. Heard both sides and perused the materials available on record.

8. On perusal of the record it is observed that the allegation as against the petitioner is that he along with one Balan created and forged signature and documents. already the second respondent and other purchased apartments from one Balan and for that purpose they give their KYC documents and based on the documents given by the defacto complainant and others this petitioner with the help of the said Balan misused those documents. By misusing the documents this petitioner created forged receipt in the said finance and after receipt of notice of the same, the defacto complainant came to the knowledge of said creation of fixed deposit in the name of the second respondent and other and thereafter complaint was given. According to the petitioner he resigned from the Management of the above said Finance in the year 2019 and he has not committed any offence. Since this case is borne out of records and inorder to find out the truth elaborate investigation is required. It is admitted fact that the investigation was transferred to the first respondent and now in initial stage. As per the guidelines issued by the Hon'ble Apex Court in the case of ***Neeharika Infrastructure Pvt Ltd vs. State of Maharastra and Others*** *reported in* ***2021 SCC Online SC 315,*** this Court cannot scuttle the investigation of the

investigation officer at the initial stage and hence the petitioner is liable to be dismissed.

9. At this juncture the learned counsel for the petitioner requested this Court to direct the respondent police to enquire the complaint given by him and also the main accused namely Jothirajan of Thirumalai Thirumal Finance Ltd., In this context the petitioner is at liberty to approach the investigation officer with relevant records and the investigation officer after receipt of records from the petitioner can investigate the case inaccordance with law. Further the learned counsel appearing for the petitoiner requested this Court to issue direction to the concerned jurisdiction Deputy Superintendent of Police to monitor the investigation.

10. Considering the nature of offence and considering the request made by the learned counsel for the petitioner it is appropirate to direct the concerned Deputy Superintendent of Police to monitor the investigation of the case and to file final report as expeditiously as possible preferably within a period of two months from the date of receipt of a copy of this order.

11. With the above observation and direction this Criminal Original Petition is disposed of. Consequently connected miscellaneous petition is closed.

22.09.2023

Index : Yes / No
Internet : Yes / No
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To

1. The Inspector of Police
   Medical College Police Station
   Thanjavur District

2. The Inspector of Police
   Pattukottai Town Police Station
   Thanjavur District

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

P.DHANABAL, J.

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