



Crl.OP(MD)No.15779 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 14/09/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.15779 of 2023

Prakash

: Petitioner/ A1

Vs.

The State represented by
The Inspector of Police,
City Crime Branch,
Tiruchirapalli,
Tiruchirapalli District.
(Crime No.18 of 2022)

: Respondent/ Complainant

For Petitioner

: Mr.R.Anand
for Mr.R.Ilayaraja

For Respondent

: Mr.B.Nambiselvan
Additional Public Prosecutor

For Intervenor

: Mr.B.Jameel Arasu

PETITION FOR ANTICIPATORY BAIL Under Sec.439 of Cr.P.C.

PRAYER:- For Anticipatory Bail in Crime No.18 of 2022 on the file of the Respondent Police.

ORDER: The Court made the following order:-

The petitioner/A1, who apprehends arrest at the hands of the respondent



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police for the offences punishable under sections 406 and 420 IPC, in Crime No.18 of 2022 on the file of the respondent police, seeks anticipatory bail.

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2.The case of the prosecution is that the petitioner is running a Hospital called 'Sai Hospital and also a Company called 'Sai Share Trading Company'. He approached the de-facto complainant, by canvassing that if invested Rs.1,00,00,000/- in the Share Trading Business, he will get double the amount. Believing the words of the petitioner, the de-facto complainant invested a sum of Rs.95,00,000/- and thereafter, he refused to return the amount and thereby, cheated the de-facto complainant. Upon the complaint given by the de-facto complainant, a case in Crime No.18 of 2022 was registered for the offences stated above.

3.After dismissal of the earlier application, the present application has been filed stating that the amount that was given by the de-facto complainant was invested in the share trading business and because of the risk that was involved in the above said share trading business only, he could not repay the amount to the de-facto complainant. This was also intimated to the de-facto complainant. But in-spite of that, this false complaint has been given.



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4. But the learned counsel appearing for the intervenor/de-facto complainant would heavily rely upon the undertaking letter, that was given by the petitioner subsequent to the above said issue. Wherein he has agreed that he will settle the issue. But later failed.

5. But that document is disputed by the petitioner to the effect that the signature was obtained by threat and force. The above said undertaking was given, on 20/08/2021. With reference to the above said amount, he has also filed the plaint in O.S No.532 of 2022 before the District Munsif Court, Tiruchirapalli, for permanent injunction restraining this petitioner from alienating the property in violation of the undertaking, dated 20/08/2021.

6. The learned counsel appearing for the petitioner would submit that the above said plaint was filed, on 05/09/2022. Apart from that, he has also filed WP (MD)No.15208 of 2022 seeking a direction to the Sub- Registrar not to register any sale deed in respect of the property covered under document Nos.1500 and 1501 of 2019 and 7693 of 2016.



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7.No doubt that there was some Account Managing Agreement between the de-facto complainant and the petitioner herein. The responsibilities of the Account Manager has also been set out in the agreement.

8.Clause 2 of the above said agreement reads as under:-

"2.RULES FOR CLIENT TO FOLLOW:-

If client fails to abide by these rules trading may cease on the client account(s)

- *Client agrees not to request traders to make specific percentage returns.*
- *Client agrees not to execute any trades or enter any limit orders on the account.*

9.With regard to the profit sharing, it has been mentioned as follows:-

"4.PROFIT SHARING & AGREEMENT DURATION:



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ACCOUNT MANAGERS & Client will receive a profit sharing fee with the amount agrees by as follows:-

Client will receive agreed percentage amounts from their profit of invested capital amounts.

Mr.C.ASHOK, (Client) has given the capital amount of Rs.9500000 (Ninety five lakhs rupees) on 10.06.2020. The profit sharing percentage is calculated as twice the invested amount and client will receive the sum of Rs.1,90,00,000 on 15.06.2021. The profit & invested amount will be paid directly to the client from account manager by means of cheque/bank transfer or cash on 15.06.2021.

10.The services and offer provided by the Accounts Manager has also been spelled out in Clause '6' as under:-

"6.ACCOUNTS MANAGEMENT SERVICES

- ACCOUNTS MANAGERS*** provides highly professional & confidential financial solution...
- ACCOUNTS MANAGERS*** offer an attractive and comprehensive range of financial services.



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● We also develop and manage **ACCOUNTS** on behalf of clients.

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- Our independent **ACCOUNT** research department gives the opportunity to find the most successful trading for our clients and also gives you advice on choosing a right platform for trading.
- **ACCOUNTS MANAGERS** provides technical support & guidance to the **ACCOUNT** manager to earn profit in forex trading.
- In order to generate added value for you, we pay especially close attention to the long-term consequences of our action, assist you a free and strictly confidential consultation and will provide periodic statement to the clients if they need.
- **ACCOUNTS MANAGERS** will return your investment if you are not satisfy with our business at once."

11.The reading of the agreement shows that it is nothing, but an agreement of sharing the profit. The Accounts Managers must share the profit of income directly with the de-facto complainant.



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12.Now even though, it has been stated that usual risk is involved, but the fact remains that against the above said agreement, undertaking letter was given by the petitioner to return the amount as extracted above.

13.Clause 6 of the agreement specifically provides for such return. If the client is not satisfied with the business, then they will return the investment. So, according to the prosecution, the above said clause has been violated, that is why, the present complaint has been given.

14.In view of the above said violation of clause and in-spite of undertaking given by him in the form of written undertaking, that was also not complied.

15.In view of the above said factual circumstances, I am of the considered view that I find no reason to differ from the view that has been taken by this court in Crl.OP(MD)No.11468 of 2022, dated 10/03/2022.

16.In the result, this criminal original petition stands **dismissed**.

sd/-

14/09/2023

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/10/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ER



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TO
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- 1 THE INSPECTOR OF POLICE
CITY CRIME BRANCH ,
TIRUCHIRAPALLI,
TIRUCHIRAPALLI DISTRICT.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.15779 of 2023
Date :14/09/2023

SS/MGA/06/10/2023/8P/3C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023