



Crl.O.P.No.1798 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:25.04.2024

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.1798 of 2024

and

Crl.M.P.No.3850 of 2024

1.K.Rajesh Kannan

2.R.Gayathri

.. Petitioners

/versus/

1.The State

Rep.by the Inspector of Police,
Peelamedu Police Station,
Coimbatore District.

2.J.Santhosh

.. Respondents

Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records pertaining to First Information Report vide Crime No.807 of 2023, dated 07.12.2023 on the file of the Inspector of Police, Peelamedu Police Station, Coimbatore District and quash the same as illegal.



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For Petitioners :Mr.R.John Sathiyan, Senior Counsel
for Mr.S.B.Viswanathan

For Respondents :Mr.S.Udaya Kumar
Government Advocate
(Crl.Side) for R1
Mr.Abduda Kumar Rajarathinam,
Senior Counsel for
Mr.M.Jaikumar for R2

ORDER

This Criminal Original Petition has been filed to quash the criminal complaint pending investigation on the file of the first respondent, Inspector of Police, Peelamedu Police Station, Coimbatore.

2. The sum and substance of the complaint is that, the defacto complainant, who is the co-brother of the accused, has lend his name to borrow a loan in LIC Housing Finance for purchase of a vacant site and construction of a house. The entire EMI paid sofar was by the defacto complainant. When the complainant sought for transfer of the property in his name, as per the agreed terms, the accused demanded Rs.50 laksh. Hence, he paid an initial part payment of Rs.25 lakhs and



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when he was ready to pay the balance amount of Rs.25 lakhs, he refused to receive the balance amount and transfer the property. The complaint has been registered in Crime No. 807 of 2023 for the offences under Sections 406, 420 and 120B of IPC and the same is under investigation. While so, the accused have approached this Court by filing this Criminal Original Petition saying that a pure civil transaction has been given a criminal colour instead of filing a suit for specific performance. The defacto complainant has resorted to criminal proceedings and therefore, sought to quash the complaint.

3. This Court been *prima facie* satisfied about the case of the petitioners and granted an interim stay for a period of six weeks, vide order dated 01.02.2024. The defacto complainant, who is the second respondent, has filed a petition to vacate the stay stating that it is not a pure and simple civil dispute, but it is a clear case of deception and cheating on the promise of the accused, who lends his name to avail a loan, since he has a better credit rating. The defacto complainant invested in the purchase of the site and construction. Apart from payment of EMI, he is also ready to pay another Rs.50 lakhs to the



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accused for transfer of the property in his name. However, after receiving Rs.25 lakhs towards part payment, he has gone back from his work deceiving the defacto complainant.

4. This Court, after hearing the learned Senior Counsel appearing on either side and perusing the records, finds that it is not a case of pure and simple civil transaction and if the allegation as found in the complaint is found to be true, the respondent police is allowed to continue the investigation and collect the materials from either side regarding expenses for purchase of the property; meeting out for construction expenses; the loan availability; instalments paid and source from which to meet out the expenses. Both the parties shall produce the documents in this connection for the Investigating Officer to take a decision, whether this is a civil dispute or an element of criminality found, that could be taken cognizance for trial. Hence, the order of interim stay granted on 01.02.2024 stands vacated. The respondent police is permitted to continue the investigation and complete it within a period of two months from the date of receipt of a copy of this order. The defacto complainant as well as the accused



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shall produce the documents regarding transactions including their bank account to substantiate their respective case. The respondent police shall not be taken any coercive measures against the accused till completion of the investigation.

5. With the above observations, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

25.04.2024

Index:yes/no
Neutral Citation:yes/no
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To:

The Inspector of Police,
Peelamedu Police Station,
Coimbatore District.

DR.G.JAYACHANDRAN,J.



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