



WEB COPY



Crl.O.P.No.7071 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2024

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Crl.O.P.No.7071 of 2022
and Crl.M.P.No.4030 of 2022

Kishore Prabhu

... Petitioner

Versus

1.State rep. by Inspector of Police,
K-3, Aminjakarai Police Station,
Chennai 600 029.

2.M.Nagoor

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, pleaded to call for entire records in C.C.No.7093 of 2021 on the file of V Metropolitan Magistrate, Egmore, Chennai in Crime No.709 of 2021 on the file of 1st respondent police and quash the Charge sheet.

For Petitioner : Mr.L.Infant Dinesh

For Respondent 1 : Mr.S.Vinoth Kumar,
Government Advocate (Crl. Side)



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ORDER

WEB COPY The petitioner has filed this petition to call for entire records in C.C.No.7093 of 2021 on the file of V Metropolitan Magistrate, Egmore, Chennai in Crime No.709 of 2021 on the file of 1st respondent police and quash the Charge sheet.

2. The case of the prosecution is that the defacto complainant is close acquaintance with accused who is tenant and pastor in Seventh Day Church since 2018. The accused had approached the defacto complainant and offered to do business with him in Seventh Day Church School project work for which accused asked to invest amount to get profit for every 45 days and the profit amount will be share equally between them. On believing his words, the defacto complainant had given cash to the tune of Rs.44,10,000/- for business purpose on various occasions from 02.10.2018 to 15.10.2020 but the accused had not returned any profit and cheated the entire amount and absconded on 06.03.2021 from his house.

3. The learned counsel for the petitioner submitted that the petitioner is doing small scale business and the defacto complainant had invested amount in his business and shared profit equally between them though bank and cash till 2020 but the defacto complainant had lodged false complaint against the



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petitioner to get ex-orbitant profit using his influence in bereft of any truth.

He further submitted that the respondent police had not conducted any preliminary enquiry for commercial transaction, without following the guidelines of Lalitha Kumari case had registered FIR as well as the charge sheet against the petitioner is against law of land. He also further submitted that there are no ingrediants of far as Section 406 and 420 of IPC Act, and it has no essence to attract any Sections of IPC as alleged against the petitioner. Hence, he prays to quash the proceeding in Crime No.709 of 2021 on the file of 1st respondent police.

4. The learned Government Advocate (Crl.side) submitted that as per the investigation, on believing the words of the petitioner, the defacto complainant had given a sum of Rs.44,10,000/- for business purpose on various occasions from 02.10.2018 to 15.10.2020 but the petitioner / accused had not returned any profit and cheated the entire amount. Based on the complaint lodged by the defacto complainant, FIR has been registered in Crime No.709 of 2021 under Sections 406 and 420 of IPC Act and the charge sheet also filed in CC.No.7093 of 2021 on the file of the V Metropolitan Magistrate, Egmore, Chennai.



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5. Considering both side submission and the facts reveals that originally the petitioner / accused have money transaction from the defacto complainant. Now the petitioner repaid the entire amount which already borrowed. But as per the complaint, stating that he gave false promise and obtained money for the defacto complainant which comes around Rs.44 lakhs, if at all, the said amount was repaid by the petitioner / accused he has to prove the same, which needs detail evidence, mere Bank statement is not sufficient to conclude that the petitioner repaid the alleged amount at this stage.

6. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

7. However, liberty is granted to the petitioner to raise all the defence before the trial Court, in accordance with law.

03.01.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No
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To
WEB COPY

- 1.The V Metropolitan Magistrate,
Egmore, Chennai.
- 2.The Inspector of Police,
K-3, Aminjakarai Police Station,
Chennai 600 029.
- 3.The Public Prosecutor,
High Court of Madras.



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T.V.THAMILSELVI, J.

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