



Crl.O.P.No.7628 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.04.2024

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.7628 of 2024
& Crl.M.P.Nos.6258 & 5523 of 2024

S.Easwari @ Eswari

... Petitioner/Accused 2

/versus/

1. The State, Rep. by
The Inspector of Police,
Team-1, EDF-I,
Central Crime Branch, Chennai.
(Crime No.211 of 2021)

... Respondent

2. Mr.D.Manivannan.

... Respondent/Defacto complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and papers relating to Crime No.211 of 2021 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.K.M.Ramesh,
for M.G.Martinamanivannan

For R1 : Mr.K.M.D.Muhilan
Government Advocate (Crl.Side)

For R2 : Mr.G.Prabhakaran

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ORDER

This Criminal Original Petition is filed to quash the Crime No.211 of 2021 on the file of the 1st respondent which is under investigation.

2. Earlier, when this petitioner approached this Court for quash, a detailed order has been passed by this Court rejecting the quash petition. However, the second quash petition is filed on the premise that the defacto complainant has initiated proceedings under Section 138 of N.I. Act, for the same amount and therefore, for the same set of facts, there cannot be two prosecution and same will be hit by Doctrine of double jeopardy.

3. The Learned Senior Counsel appearing for the petitioner on relying upon the judgment of the Hon'ble Supreme Court rendered in ***J.Vedhasingh -vs- R.M.Govindan & Others***, states that the matter is now been referred to Larger Bench regarding maintainability of criminal prosecution under Section 420 of I.P.C as well as private complaint under Section 138 of N.I. Act.



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4. This Court, on reading the F.I.R, *prima facie* find that it is not only receipt of the money on misrepresentation but there is also element of forgery alleged. Whether that element of forgery is made or not will be finalised only when the final report is filed and therefore, it is premature for this Court to arrive at a conclusion that the case under investigation in Crime No.211 of 2011 and the private complaint under Section 138 of N.I.Act are arising out of same set of facts.

5. With the above observation, this ***Criminal Original Petition is dismissed.*** The petitioner shall workout his remedy after filing of the final report. Consequently, connected Miscellaneous Petitions are closed.

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Index :Yes/No.

Internet :Yes/No.

Speaking Order/Non-Speaking Order
bsm.

Copy to:

1. The Inspector of Police, Team-1, EDF-I,
Central Crime Branch, Chennai.

2. The Public Prosecutor, High Court, Madras.

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Dr.G.JAYACHANDRAN,J.

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