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Crl.O.P.No.7849 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.04.2024**

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.O.P.No.7849 of 2024
and Crl.M.P.No.5741 of 2024**

M/s.Casa Grande Premier Builder Pvt Ltd.
Registered office at 5th Floor,
NPL Devi, New No.111, Old No.59,
LB Road, Thiruvanmiyur,
Chennai – 600 041,
Represented by
K.P.Bhavaanigopan
Authorised Signatory

... Petitioner

Vs.

1. State by Inspector of Police,
Thiruvanmiyur Police Station,
Chennai District,
(Crime No.318/2023)

2. Poiyamozhi

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in Crime No.318 of 2023 on the file of the I Respondent and quash the same.

For petitioner

: Mr.G.Murugendiran

For R-1

: Mr.K.M.D.Muhilan, GA

ORDER

This petition has been filed seeking to quash the proceedings in Crime No.318 of 2023 on the file of the I Respondent and quash the



same.

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2. The case of the prosecution is that the second respondent is the allottee of M/s.Casa Grande Premier Builder Pvt Ltd. and the petitioner is the promoter of the said apartment. As per the sale agreement, the total consideration of the sale amount is Rs.68,09,481 and thereafter the second respondent paid the advance for the said apartment, pursuant to which, the petitioner could not proceed further with the bank loan as agreed by the company, due to which, the second respondent demanded a refund of the advance amount from the company. Since the said amount was not refunded, the second respondent filed a complaint before the XVIII Metropolitan Magistrate, Saidapet, Chennai in Crl.M.P.No.4105 of 2023 and the trial court directed to investigate the case in accordance with law, pursuant to the said order, the petitioner paid the advance amount of Rs.7,00,000/- and has also intimated the same to the respondent police vide letter dated 20.06.2023. Though the said amount has been paid by the petitioner, the first respondent registered a case against the petitioner company under Section 406, 420, 506(1) of IPC. Challenging the same, the present petition has been filed.

3. The learned counsel for the petitioner submit that though the



criminal case has been put against the petitioner, however the dispute involved in the present case is purely civil in nature. He further submits that though the second respondent has filed C.C.No.97 of 2023 before the District Consumer Forum Chennai South and sought the very same relief from the petitioner's company, however, the second respondent has also filed another complaint for the very same relief before the first respondent which is *per se* unsustainable. Hence, he prayed this Court, to permit the petitioner to produce all the necessary documents before the Law Enforcing Agency enabling the petitioner to disprove the contents of the complaint and thereafter, the Law Enforcing Agency may be directed to conclude the same by referring the matter as mistake of fact subject to the cognizability of the offence.

4. The learned Government Advocate (Crl.side) appearing for the first respondent Police submits that if the entire amount sought for by the second respondent has been paid by the petitioner, the present case which has been put against the petitioner will be referred as mistake of fact.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent.



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6. On a reading of FIR, there appears to be some materials for the investigation to proceed. It is also seen that the issue involved in the present case is civil in nature. Interfering with the investigation, which is at an infancy stage under Section 482 of the Code of Criminal Procedure, will be against the law laid down by the Supreme Court in *State of Haryana and others vs. Bhajan Lal and others* reported in *1992 Supp (1) SCC 335*.

7. Accordingly, this Criminal Original Petition stands dismissed. However, liberty is granted to the petitioner to produce all the requisite documents in order to disprove the contents of the FIR before the Law Enforcing Agency and the Law Enforcing Agency shall refer the matter as mistake of fact subject to the cognizability of the offence. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Internet : Yes/No

To



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1. Inspector of Police,
Thiruvanmiyur Police Station,
Chennai District,
(Crime No.318/2023)

2. The Public Prosecutor,
Madras High Court.

M.DHANDAPANI.J.



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