



Crl.O.P.No.8867 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.8867 of 2024
& Crl.M.P.Nos.6324 & 6325 of 2024

Mr.S.Shankar.

... Petitioner/3rd Accused

/versus/

1. The Sub Inspector of Police,
Central Crime Branch,
EDF-I, Team-2,
Vepery, Chennai – 600 007.
Crime No.44/2018

... Respondent/Complainant

2. Mr.Sunil Kumar.

... Respondent/defacto Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C.,
pleaded to call for the records in respect of the impugned C.C.No.3148 of 2023
on the file of the Metropolitan Magistrate Court for CCB/CBCID Cases,
Egmore, Chennai and quash the same.

For Petitioner : Mr.A.Thirumaran

For R1 : Mr.S.Udaya Kumar,
Government Advocate (Crl.Side)

For R2 : No appearance



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ORDER

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Though notice was served on the defacto complainant/2nd respondent herein and his name was printed in the cause list, none appeared on behalf of the 2nd respondent either in person or through Counsel. Hence, the present petition is came up for hearing.

2. The petitioner is the 3rd accused in C.C.No.3148 of 2023 on the file of Metropolitan Magistrate, CCB/CBCID cases, Egmore, Chennai.

3. The short point canvassed in this petition to quash the case is that even assuming that the statement of witnesses including the complainant are gospel truth, there is no overt act against the petitioner herein for any criminal prosecution except to say that the petitioner being brother of the 1st accused was present when the complainant gave Rs.25 lakhs for expansion of partnership firm.

4. The Learned Counsel appearing for the petitioner would submit that it is purely a civil transaction between the defacto complainant and the brother of the petitioner for hotel business wherein it is alleged that the money



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paid for development of the business been cheated by the 1st accused. Except being brother of the 1st accused, the petitioner has nothing to do neither with the business or receipt of the money.

5. The Learned Counsel for the petitioner also read through Section 161 of Cr.P.C statement of witnesses and submitted that nowhere in the statements, the petitioner been implicated for any act of crime which liable to be prosecuted.

6. This Court, on perusing the documents find that there is no incriminating material *prima facie* for framing charges against this petitioner for any of the offences. Neither he has received the money which alleged to have been cheated nor been consciously participated in the money transaction with intention to cheat the defacto complainant. Mere presence while transacted cannot make a person liable for criminal prosecution. Therefore, this Court finds merit in the petition to quash.



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7. Accordingly, this Criminal Original Petition is allowed and

prosecution against this petitioner who arrayed as A3 stands quashed.

Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes/No.

Neutral Citation : Yes/No.

bsm

Copy to

1. The Metropolitan Magistrate Court for CCB/CBCID Cases, Egmore, Chennai.

2. The Sub Inspector of Police, Central Crime Branch, EDF-I, Team-2, Vepery, Chennai – 600 007.

3. The Public Prosecutor, High Court, Madras.



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Dr.G.JAYACHANDRAN,J.
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