



Crl.O.P.No.11653 of 2024

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K. KUMARESH BABU, J.

The petitioners have approached this Court seeking to enlarge them on bail in the event of arrest by the respondent police, for the offences punishable under Section 420 of Indian Penal Code in Crime No.not known of 2024.

2. The learned counsel for the petitioners would submit that the 1st petitioner due to his financial instability had approached the appropriate Civil Court and had filed a I.P.No.18 of 2022, in which the defacto complainant and her sister were also parties. He would submit that it is true that he had taken some money from the defacto complainant and her sister and that in the compromise that had been arrived at between them, he and the second petitioner have agreed to repay the loans that the first petitioner had availed from the defacto complainant and his sister. However, suppressing the said material the defacto complainant had filed a complaint before the Commissioner of Police alleging that he had received money from the defacto complainant for purchase of property



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and he had neither arranged to purchase the property in favour of the defacto complainant nor had repaid the amount and thereby cheated the defacto complainant. In that context he would submit that there is no promise made by the first petitioner for purchase of the property and all was that he had availed the loan for which an agreement had also entered and compromise was also entered between the petitioners, the defacto complainant and her sister in the presence of elders of the family and locality. Therefore, he would submit that based upon the false complaint he has been harassed and apprehends arrest at the hands of the respondent police as the complaint given by the defacto complainant had been forwarded to the respondent police. Hence, he would seek indulgence of this Court to enlarge the petitioners on bail in the event of his arrest.

3. Countering his arguments the learned Government Advocate would submit that the petitioner had been habitually cheating people and there have been various cases registered against him from the year 2016. He would further submit that an opinion had been opined by the Law



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Officer of the Police commissionerate indicating that there has been cheating committed by both the petitioners, for which offences under Section 120(b), 420 and 506(i) have been attracted and had opined that following the principles laid down by the Hon'ble Apex Court in ***Lalita Kumari's case*** a case may be registered. Therefore, the enquiry is still pending and in view of the opinion, further proceedings have to be initiated and therefore, this Court need not show any indulgence to the petitioners. He has also produced the file relating to the case.

4. I have heard the arguments made by the learned counsel appearing on either side and also perused the materials placed before me and including the file that had been produced.

5. A reading of the complaint given by the defacto complainant would allege that the first petitioner had received money for purchase of a land in their favour. It is also the claim of the defacto complainant that for the money that had been paid for the purchase of properties both the petitioners had executed a document on 28.09.2022 promising to repay the amount and also had given cheques for the said repayment. The said



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file also contains a document purportedly titled as “Panchayat Muchalika” which had been executed by the petitioners and the defacto complainant along with the sister of the defacto complainant. A reading of the said document would indicate that the first petitioner had borrowed monies to the tune of Rs.35,00,000/- from the defacto complainant and her sister for which already a complaint with CCB, Salem had been lodged by the defacto complainant. Further it had been agreed by the second petitioner to repay the loan that had been availed of by the first petitioner. The defacto complainant and her sister had also agreed to withdraw the complaint that they have already lodged with the CCB, Salem. They had also acknowledged the receipt of a sum of Rs. 2,00,000/- under the said document.

6. Relying upon the said document now a complaint had been filed alleging as though the said amounts that had been paid to the first petitioner was pursuant to a promise made by the first petitioner to purchase the properties in favour of the defacto complainant. The defacto complainant cannot also dispute the document dated **28.09.2022** as she in her complaint had admitted the execution of such document. The said



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complaint seems to have made only with an intention to circumvent the insolvency proceedings initiated by the first petitioner herein, in which defacto complainant and her sister have also been made parties. In that view I am *prima facie* satisfied that the complaint given by the defacto complainant is a false complaint. It is also not clear whether the law officer had been appraised all the facts and whether he had been provided with the document relied upon by the defacto complainant for rendering his opinion. In such view of the matter, the petitioners are enlarged on bail without any conditions whatsoever in the event of arrest by the respondents police. This petition is ordered accordingly.

10.05.2024

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