



CrI.O.P.No.18450 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

CORAM:

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

CrI.O.P.No.18450 of 2022
and CrI.M.P.Nos.12183 & 12185 of 2022

1.S.Sivasamy
2.S.Saraswathy ... Petitioners

Versus

1.State Represented by,
The Inspector of Police,
Tiruppur Central Police Station,
Tiruppur District.

2.Kavitha ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records relating tot he Charge Sheet in C.C.No.236 of 2019 on the file of learned Judicial Magistrate No.II, Tiruppur and quash the same.

For Petitioners : Mr.K.Pradeep Raj
For Respondent 1 : Mr.S.Vinoth Kumar
Govt. Advocate (CrI. Side)



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For Respondent 2 : Mr.K.Sudhakar

ORDER

This petition has been filed to quash the proceedings in C.C.No.236 of 2019 on the file of learned Judicial Magistrate No.II, Tiruppur, in which cognizance was taken for the offences under Sections 406, 409, 420 of IPC.

2. It is the case under Section 420 of IPC, against this petitioner and a total of three accused, one of whom has died. A final report was filed against the remaining two accused. Admittedly, the de facto complainant is the wife of the 1st petitioner's brother. As per the complaint, Gopalsamy and his wife were jointly doing family business under the name of M/s.Gracy Incorporation, since the year 2012, obtained from Saraswathy /A2. The defacto complainant, Kavitha, was doing business under the name of Sri Selvanayagi Agency, and they had business transactions among them. Due to a misunderstanding regarding the partnership firm, according to R2, nearly property worth about Rs. 1,36,00,000/- and machinery worth Rs.61 lakhs were inside the premises.



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However, without his knowledge, all the stocks were sold for only a sum of Rs. 84 lakhs. Therefore, they caused loss and committed the offence of cheating and misappropriation, leading to the complaint being lodged against them.

3. The learned counsel for the petitioner submitted that the petitioner is innocent and has not committed any offence as alleged by the prosecution. Therefore, he prays for the proceedings to be quashed.

4. The learned Government Advocate (Crl. Side) submitted that based on the complaint lodged by the de facto complainant, an FIR has been registered in Crime No. 24 of 2016, and the case has been taken on file as C.C. No. 236 of 2019 on the file of learned Judicial Magistrate No. II, Tiruppur, against the petitioners.

5. Considering the facts and circumstances and the submissions made by both sides' counsels, he further submitted that there is no basic ingredient to the alleged occurrence and that she has not been a partner



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of the firm since the year 2015. They have discharged receipts, but all the facts can be proved only through trial. Therefore, I am not inclined to quash the proceedings in C.C. No. 236 of 2019 on the file of learned Judicial Magistrate No. II, Tiruppur.

6. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous petitions are closed.

7. If any defense is available, the petitioners have to work out their remedy before the trial Court. Considering the age of the petitioners, the personal appearance before the trial Court is ordered to be dispensed with, and the petitioners are directed to appear if their appearance is necessary.

05.03.2024

Index: Yes/No
Internet: Yes/No
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To

- 1.The Judicial Magistrate No.II, Tiruppur.
- 2.The Inspector of Police,
Tiruppur Central Police Station,
Tiruppur District.
- 3.The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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