IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2024

CORAM:

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

Crl.O.P.No.17737 of 2022
and Crl.M.P.Nos.11155 & 11157 of 2022

1.Balan
Branch Manager
HDFC Bank Ltd
Sampalli
P.N.Patti Village
Mettur dam – 636 403.

2.Manager
HDFC Bank Ltd
D.No.5 241 F, Meyyanur,
Rathna Arcade, Five Road,
Salem 636 004. ... Petitioners

Versus

C.Shanmugam ... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the private complaint initiated by the respondent herein against the petitioners in

C.C.No.17 of 2021 on the file of the II Judicial Magistrate Court, Mettur, Salem.

For Petitioners : Mr.C.Mohan
for M/s.King and Partridge

For Respondent : Mr.T.Saikrishnan

ORDER

The petitioner has filed this Criminal Original petitions to quash the proceedings in C.C.No.17 of 2021 on the file of the II Judicial Magistrate Court, Mettur, Salem, in which cognizance was taken for the offence punishable under Sections 120B, 506, 419, 420, 417 and 465 of IPC.

2. The case of the prosecution is that the petitioners herein are ranked as A4 and A6 in C.C.No.17 of 2021, a private complaint given by the respondent against the petitioners. Summons were issued to all the accused, namely A1 to A6. The 1st petitioner herein is the Branch

Manager of HDFC Bank. The de facto complainant/respondent and the 1st accused are husband and wife, and the 2nd, 3rd, and 4th accused are their sons. The 5th accused is their son-in-law. Except for the bank officials, all the accused are close family relatives of the de facto complainant.

3. The complainant, Shanmugam, who is about 75 years old, stated in his complaint that without his knowledge, his wife and son colluded with branch officials to close the Mutual Fund account in which he had deposited a sum of Rs.37,00,000/- (Rupees Thirty-Seven Lakhs only), out of which Rs.15,00,000/- (Rupees Fifteen Lakhs only) was his retirement benefit and the remainder his savings. Knowing about this amount, his family members, particularly his son, caused him mental torture and demanded the money. When he refused, they assaulted him on 11.08.2019, forcibly took away his Aadhaar Card, Ration Card, Voter Card, HDFC Bank ATM, bank account book, and also his IOB account book with ICICI ATM card and deposit receipts. Fearing for his life, he stayed away from his family members from 11.08.2019 to 09.10.2019. In

the meantime, he sent a complaint through the police on 15.08.2019 via courier. When he went to the bank on 10.10.2019, he learned that the Kotak Mahindra Fund amount deposited in the HDFC Bank had been closed, and the amount was transferred to his wife's account in ICICI Bank without his consent. Upon inquiry, he discovered that his wife had transferred the amount through a cheque, which he had not signed, implying fabrication. Additionally, his son, A5, who works abroad, had transferred money using his ATM card from his NRI account. He alleges that the bank colluded in these activities, leading to his complaint.

4. The learned counsel for the petitioners, who are the bank officials, submitted that the wife of the de facto complainant presented cheques for the amount to be transferred. Since she is a close relative of the account holder, they complied. Moreover, a sum of Rs.10 lakhs was taken by his son, as identified by the de facto complainant through camera footage. Therefore, the amounts were transferred via cheques presented by the de facto complainant's son. The counsel argued that the bank officials did not engage in any impersonation or criminal activity.

5. Furthermore, the learned counsel pointed out that the bank had issued a reply to the de facto complainant with his account details, which clearly showed that the mutual fund was closed at his request. The transactions were distinct from the HDFC Bank's involvement, as the amount was transferred to the account of the de facto complainant's wife. The son, also a close relative, withdrew another amount. The bank merely facilitated these transactions as per their procedures.

6. The learned counsel for the de facto complainant argued that no notice was given to the de facto complainant, who had a mutual fund scheme with HDFC Bank, and that his account was closed without his consent. This suggested collusion between the bank and the other accused. Heard both sides. The initial complaint did not mention the role of the bank officials, but this aspect developed about a month later. Thus, there is no substantial evidence implicating the bank officials, and their involvement appears limited to procedural disbursements and there

is no basic ingredient to attract those offences on the side of the prosecution. Consequently, the proceedings against the bank officials are ordered to be quashed in C.C.No.17 of 2021 on the file of the II Judicial Magistrate Court, Mettur, Salem.

7. Accordingly, this Criminal Original Petition is dismissed and Consequently, the connected miscellaneous petitions are closed.

01.03.2024

Index: Yes/No
Internet: Yes/No
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To

The II Judicial Magistrate Court, Mettur,
Salem.

<u>T.V.THAMILSELVI, J.</u>

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