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CrI.O.P.No.18552 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.18552 of 2023
& CrI.M.P.No.12347 of 2023

T.Mannan.

... Petitioner/Accused

/versus/

1. State Represented by
The Inspector of Police,
Central Crime Branch-I,
Forgery Investigation Wing Team 27,
Chennai.
Crime No.133 of 2023

... 1st Respondent/complainant

2. D.Senthil Kumar.

...2nd Respondent/Defacto complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records in Crime No.133 of 2023 on the file of the 1st respondent, Inspector of Police, Forgery Investigation Wing, Team – 27, Central Crime Branch-I, Chennai and quash the same as against the petitioner.

For Petitioner : Mr.B.Arvind Srevatsa

For R1 : Mr.K.M.D.Muhilan
Government Advocate (CrI.Side)

For R2 : Mr.L.Infant Dinesh



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ORDER

This Criminal Original Petition is filed to quash the criminal complaint pending on the file of Central Crime Branch-I, in Crime No.133 of 2023, dated 08.06.2023.

2. The sum and substance of the complaint is that the complainant was induced to part away a sum of Rs.1,55,00,000/- to secure a tender from the Corporation of Chennai for maintenance of the computer peripherals for a period of one year. However, it happens to be a fake promise to cheat the complainant. When this was realised by the defacto complainant, he demanded the money back from the petitioner herein. The petitioner herein gave two cheques for a sum of Rs.1,35,00,000/- and Rs.65,00,000/- and the same was returned. Under the guise of procuring the Tender and promise, the petitioner induced the complainant to part away a sum of Rs.1,55,00,000/- and therefore, case was registered for breach of trust, criminal conspiracy, cheating, fabrication of Government Tender document and misrepresentation been made out. The said allegation was made as a complaint to XVIII Metropolitan Magistrate under Section 156(3) of Cr.P.C. The Learned Magistrate directed



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the police to register the complaint and investigate the case. Accordingly, the complaint was registered by Abiramipuram Police Station and thereafter, got transferred to CCB and renumbered as F.I.R.No.133 of 2023.

3. The Learned Counsel for the petitioner states that it was purely a loan transaction between the petitioner and the complainant, for which two cheques was given as security. Those two cheques were presented for collection by filing it up for a sum of Rs.1,35,00,000/- and Rs.65,00,000/-.

4. Fearing that, the complainant will fill up the cheques and present it for collection, the petitioner herein resorted for a civil Court decree for Mandatory injunction against the complainant to return those blank cheques and blank signed papers.

5. The Learned Counsel for the petitioner submitted that the matter is purely civil in nature and the Memorandum of Understanding relied by the petitioner herein was filled up. The blank stamp papers signed and given to the complainant been misused by creating a document as if there was Memorandum of Understanding between the complainant and the petitioner to obtain



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Government contract.

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6. This Court, after considering the oral submissions made by the Learned Counsels and on perusal of the record find that the complaint is based on the terms of Memorandum of Understanding which indicates that the petitioner herein agreed to take the defacto complainant as a partner in the tender project and share the profit in the ratio of 55:45. Based on the said Memorandum of Understanding, a sum of Rs.1,55,00,000/- been parted away by the complainant. The tender which is mentioned in the Memorandum of Understanding is for value of Rs.7.90 Crores under tender No.இடி.பி.சி.ந.க.எண்.சி2/044/2021.

7. The contention of the complainant is that the said tender document been fabricated by the accused. However, from the CD file, this Court finds that the Corporation of Chennai has floated a short term tender for maintenance of its computer peripherals under Tender No.இடி.பி.சி.ந.க.எண்.சி2/044/2021, for a sum of Rs.7,90,438/-. Initially, the last date for bidding through online was fixed as 26.05.2022 at 3.00 p.m. The Memorandum of Understanding entered between the parties is dated 10.05.2022 i.e., much ahead of the last date fixed for participating in the



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Tender. Therefore, on the face of the record, it is clear that the petitioner herein has not misrepresented about the existence of tender and intention to participate in the tender and get the tender in his favour.

8. The Learned Counsel for the petitioner submitted that, after entering into Memorandum of Understanding, the petitioner has not participated in the Tender which could indicate his deceptive intention at the inception itself. He further submitted that the tender was postponed subsequently several times which could show that it is a sufficient proof to show the deceptive intention. Whereas, the Learned Counsel for the petitioner submits that the very Memorandum of Understanding relied by the complainant itself is a fabricated one, subsequently by using the blank signed paper of the petitioner.

9. Either way on reading of the terms of Memorandum of Understanding and the notification of the Corporation of Chennai, this Court finds that the date on which the said Memorandum of Understanding alleged to have been executed, there was a public tender by the Corporation of Chennai and this petitioner admittedly a computer expert had represented the



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complainant that he will participate in the tender and get the bid in his favour.

No doubt, this has never happened. However, the money collected by him appears to have been attempted to repay by way of two cheques which is subject matter of Section 138 N.I Act proceedings. This show there was no deceptive intention at inception.

10. In the said circumstances, on cumulative assessment of the records, this Court finds that it is purely a money transaction between the complainant and the petitioner. To secure the repayment, the complainant has taken cheques which later been presented for collection and got dishonoured. While so, even if the Memorandum of Understanding which alleged to have entered on 10.05.2022 been genuinely executed as valid document, the remedy open to the complainant is to resort Civil Court for breach of terms of Memorandum of Understanding and get redressal from a civil Court. The criminal colour is given for civil transaction. From the terms of Memorandum of Understanding one could not be inferred any criminality. Hence, the criminal complaint is not maintainable for the alleged act.

11. As a result, the petition to quash is allowed. The complaint



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under investigation in Crime No.133 of 2023 on the file of CCB, Chennai

stands quashed. Accordingly, this ***Criminal Original Petition is Allowed.***

Consequently, connected M.P is closed.

09.07.2024

Index : Yes/No.

Neutral Citation : Yes/No.

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Copy to:-

1. The Inspector of Police, Central Crime Branch-I, Forgery Investigation Wing Team 27, Chennai.
2. The Public Prosecutor, High Court, Madras.



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Dr.G.JAYACHANDRAN,J.

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