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CrI.O.P.No.19413 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.19413 of 2023

and

CrI.M.P.No.13061 of 2023

Nitish Mehtha

... Petitioner

Vs.

1.The State rep.by
The Inspector of Police,
CCB-1,
Chennai.

2.Vasudeva Guptha

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to quash the First Information Report dated 29.06.2023 in Crime No.158 of 2023 of Sections 406 & 420 IPC on the file of the respondent police.

For Petitioner : Mr.G.R.Hari

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

For R2 : Mr.J.Suresh



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ORDER

This Criminal Original Petition is filed to quash the First Information Report registered under the direction of the learned Judicial Magistrate for the alleged offence under Sections 406 & 420 IPC.

2. The complainant claims to be a partner in a business firm in which the accused are co-partners. The complaint indicates that the firm was established in the year 2011 and after the retirement of one of the partners, the complainant was inducted and he has invested the money. However, the complaint is registered for the alleged Memorandum of Understanding executed by the parties in the year 2016, wherein the accused has agreed to pay a sum of Rs.2,41,55,614/- in 24 equal installments but has failed to repay.

3. The prime contention of the learned counsel appearing for the accused / petitioner is that the said memo of understanding is a forged document and further it is a time barred debt and given criminal colour.



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4. There is a material for investigating the complaint regarding cheating and breach of trust. If there is any element of breach of trust and cheating, it has to be ascertained through investigation, Court cannot jump into conclusion in exercising power under Section 482 of Cr.P.C., regarding the merits of the documents relied by the prosecution.

5. Therefore, this Criminal Original Petition to quash is dismissed with direction to the Investigating Officer to collect the documents and send it for handwriting expert opinion to ascertain whether the MOU was executed by the accused persons and thereafter proceed with the investigation. The process of collecting statements of the witnesses and the expert opinion has to be completed within a period of four months from today. Consequently, the connected Criminal Miscellaneous Petition is closed.

04.06.2024

Index : Yes/No

Neutral Citation : Yes/No

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Crl.O.P.No.19413 of 2023

Dr.G.JAYACHANDRAN,J.

rpl

To

1.The Inspector of Police,
CCB-1,
Chennai.

2.The Public Prosecutor,
High Court of Madras,
Chennai.

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