



Crl.O.P.No.239 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.239 of 2024
& Crl.M.P.Nos.149 & 6921 of 2024

Mrs.Tamilarasi @ Amritha.

... Petitioner/Accused

/versus/

R.Vijayalakshmi

... Respondent/Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code praying to call for the records in C.C.No.2761 of 2023 on the file of the XVII Metropolitan Magistrate at Saidapet, Chennai and to quash the same.

For Petitioner :Mrs.S.Suseela Devi

For Respondent :Mr.A.Velmurugan
for Mrs.P.Kritika Kamal

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ORDER

The petition is to quash C.C.No.2761 of 2023 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai. The said case is pending for trial for the alleged offence punishable under Section 420 of IPC. The case has been initiated under Section 200 of Cr.P.C.

2. The learned Magistrate has recorded the evidence of the complainant under Section 244 of Cr.P.C, wherein the accused has been cross examined by the complainant extensively and having been satisfied with the documents relied on by the complainant, the trial Court has proceeded to the stage of framing of charges and adjourned the matter. At that stage, the petition is filed to quash the complaint on the ground that the dispute is purely civil in nature. The money alleged to have been given to the petitioner's husband, while he was alive, is now sought to be recovered by filing a criminal complaint with concocted story. The money transactions alleged to have been made is of the year 2010. The present complaint is of the year 2023. Therefore, there is no element of cheating made out on a time barred claim. Further, the learned counsel appearing



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for the petitioner also would submit that the civil suit is pending for recovery of money and for the very same amount, the present complaint has been filed.

3. The statement of the complainant does not satisfy the definition of cheating as defines under Section 415 of IPC. Therefore, sought for interference of this Court and to quash the complaint.

4. A detailed counter has been filed by the complainant narrating the sequence of the events leading to the complaint, particularly, the averments made in the quash petition that the accused had no knowledge about the money transaction of her husband with the complainant and has been denied any liability.

5. Whereas to establish that it is a false statement, the bank account of the complainant is produced and it indicates that the petitioner herein paying interest for the loan from the year 2021.



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6. As far as the allegation that the civil dispute been given a criminal colour by concocted story. The learned counsel for the respondent, referring the statement of the complainant recorded by the Judicial Magistrate under Section 244 of Cr.P.C, submits that the documents and the testimony of the complainant discloses the communication between the petitioner and the complainant. On the promise to sell the properties owned by the petitioner-accused at various places, like, Puducherry, Arakonam and Chennai, the complainant had transferred the money. Whatsapp communications are relied by the learned counsel for the respondent and he submits that having fully aware that there are incriminating materials to frame charge and proceed against the petitioner, the present petition is filed suppressing the fact and swearing of false affidavit and therefore, prayed for dismissal of the quash petition with exemplary cost.

7. This Court after perusing the records, in the light of the arguments put forth by both the counsels, hold hat it is the case where the necessary ingredients required to proceed under Section 420 of IPC is



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abundantly found. Just because the money transaction runs for more than 10 years, it cannot be presumed that there was no intention to deceive at the inception. The money parted by the complainant on various stages on the promise to repay or sell a property been spoken by the complainant. Her statement has also been substantiated by marking of 10 documents. The veracity of those documents and statement has to be tested in the trial. Since there is enough material available to frame charge for offence under Section 420 of IPC, this petition to quash stands dismissed. In fine, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

14.06.2024

Index:yes/no

Neutral Citation:yes/no

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To

17th Metropolitan Magistrate at Saidapet, Chennai.



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