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Crl.R.C.No.237 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.237 of 2024

and

Crl.M.P.No.2135 of 2024

Janakiraman

... Petitioner/A1

Vs.

State rep. by

The Inspector of Police,

DCB, Tiruvannamalai Police Station,

Tiruvannamalai District.

Crime No.14 of 2021

... Respondent

PRAYER: Criminal Revision Case has been filed under Sections 397 and 401 of Cr.P.C, praying to set aside the order passed in Crl.M.P.No.6887 of 2023 in C.C.No.337 of 2023 dated 01.12.2023 on the file of the Judicial Magistrate-I, Tiruvannamalai and consequently allow the same.

For Petitioner : Mr.N.U.Pressanna

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)



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ORDER

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This Criminal Revision Petition has been filed seeking to set aside the order passed in Crl.M.P.No.6887 of 2023 in C.C.No.337 of 2023 dated 01.12.2023 on the file of the learned Judicial Magistrate-I, Tiruvannamalai.

2.The petitioner/A1 in C.C.No.337 of 2023, against whom, a charge sheet has been filed for offence under Sections 420, 120B, 406, 465 468 and 471 of I.P.C., had filed a discharge petition in Crl.M.P.No.6887 of 2023, which came to be dismissed by the trial Court by order dated 01.12.2023. Aggrieved by the said order, the present revision has been filed.

3.The contention of the petitioner is that the complaint/F.I.R. is in total contradiction to the charge sheet filed against the petitioner. Further the occurrence had taken place during June, 2019. But the complaint had been given with a delay of nearly two years and more during December, 2021. There is no reason given for the delay in lodging the F.I.R. Further LW2/father of the de-facto complainant had stated that he had earlier lodged



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a complaint and A2 in this case repaid Rs.1,52,000/- and balance amount not repaid. According to the prosecution the occurrence had taken place in Puducherry, wherein promise had been made that the petitioner and other accused can secure an M.B.B.S. seat in the Management Quota of Sri Manakula Vinayagar Medical College Hospital, Puducherry. The other averment is that the petitioner along with A2 had gone to the house of de-facto complainant at Salem, where they negotiated three places. It is stated that A3 received amount from the de-facto complainant and his father in Guindy. In any event Tiruvannamalai police will have no jurisdiction and what had happened to the earlier complaint, no reason has been given.

4.He further submitted that though LW1 to LW14 examined in this case, no documents have been produced in this case. He further submitted that on going through the entire statement of witnesses, taking it as a whole in controverted then also no case is made out. Hence he filed a discharge petition before the Lower Court. The Lower Court not considered the same



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and dismissed the petition on the ground that the points raised by the petitioner can be decided during trial.

5.The learned Government Advocate on the other hand submitted that the de-facto complainant had cleared NEET examination during the year 2019. The petitioner is A1. He is running an orphanage having office at Cuddalore and Guindy. The petitioner along with two others have joined together conspired and committed the offence of cheating and also misappropriation. Further they have created forged documents with forged particulars like college letter and receipts as though in the name of Sri Manakula Vinayagar Medical College and they had issued the same to lure and cheat the de-facto complainant and his father. Further in this case huge amount of Rs.51,00,000/- have been received by them both by way of cash and bank transactions. Through on-line transaction, a sum of Rs.20,00,000/- have been transferred to the petitioner's account, which is spoken to by the witnesses and the bank officials confirmed that a sum of Rs.20,00,000/- have



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been transferred to the petitioner's account. The petitioner was unable to give any reason as to how he received Rs.20,00,000/- and for what reason the amount has been received.

6.He further submitted that cash has been paid by A2 in this case. A3 also received some part amount. In this case the total misappropriated amount is Rs.51,00,000/- of which Rs.8,00,000/- have been paid and the balance amount of Rs.43,00,000/- have to be repaid. Further, in this case LW10-Senthil Murugan, who employed earlier in Sri Manakula Vinayagar Medical College Hospital, had clearly stated about the forgery committed and fabrication of false documents. The letter of the Administrative Officer dated 03.07.2019 and 22.08.2019 are all fabricated as though the amount had been received and assurance had been given by the college. Further these letters have been stated to be signed by one Dhakshinamurthy. The said Dhakshinamurthy had left the service from the college much earlier.



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7.LW3 is the Village Administrative Officer, who witnesses for the confession of the accused. LW4 and LW5 are the witnesses, who corroborate the evidence of LW1 and LW2. Further LW9 is the Manager of the college, who corroborates the evidence of LW10. LW7 and LW8 are the witnesses to the observation mahazar and rough sketch. The bank employees LW11, LW12 and LW13 confirms the transaction of the misappropriated amount in the ICICI bank and State Bank of India. The documents have been collected from these witnesses and filed before the trial Court along with the charge sheet. The trial Court finding *prima-facie* case against the petitioner had taken the complaint on file. Further submitted that any conspiracy cannot be explicit which is committed in secrecy and it can be inferred and proved during trial. The Trial Court had rightly dismissed the petition stating that the points raised by the petitioner are to be decided during trial and hence strongly opposed this petition. Further submitted that in this case the final report has been filed as early as on 03.06.2023 and there are only 14 witnesses, the trial itself can be completed within a stipulated time.



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8.Considering the submissions made and on a perusal of the materials available on record, this Court finds that the order passed by the Trial Court needs no interference. There are sufficient materials against the petitioner to proceed with the trial. In view of the same, this Court is not inclined to entertain this petition. Hence, this Criminal Revision Case is dismissed.

9.It is made clear that the observations made herein is only for the purpose of disposing of the above petition. The trial Court uninfluenced with the above observations of this Court shall decide the case on its own merits and in accordance with law and complete the trial as expeditiously as possible. Consequently, the connected Criminal Miscellaneous Petition is closed.

13.02.2024

Index : Yes/No

Speaking order / Non-speaking order

Neutral Citation : Yes/No

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M.NIRMAL KUMAR, J.

rsi

To

- 1.The Inspector of Police,
DCB, Tiruvannamalai Police Station,
Tiruvannamalai District.
- 2.The Judicial Magistrate-I,
Tiruvannamalai.
- 3.The Public Prosecutor,
High Court, Madras.

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and

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