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*Crl.O.P.(MD)No.206 of 2024*

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2024

CORAM

**THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR**

Crl.O.P.(MD)No.206 of 2024  
and Crl.M.P(MD).Nos.147 and 149 of 2024

Balamurugan

.. Petitioner

Vs.

1.State rep., by  
The Inspector of Police,  
District Crime Branch,  
Sivagangai.  
Crime No.13 of 2020

2.K.R.Selvam

.. Respondents

**PRAYER :** Criminal Original Petition filed under Section 528 of BNSS, to call for the records and quash the charge sheet filed in CC.No.96 of 2022 on the file of the learned Judicial Magistrate No.II, Sivagangai in respect of Crime No.13 of 2022 on the file of the first respondent police with respect to this petitioner.

|                |                                |
|----------------|--------------------------------|
| For Petitioner | : Mr.K.K.Udayakumar            |
| For R1         | : Mr.K.Sanjai Gandhi           |
|                | Government Advocate (Crl.side) |
| For R2         | : Mr.K.Seemaraj                |



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## **ORDER**

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The petitioner, who is arrayed as A3 in C.C.No.96 of 2022 and facing trial for the offence under Sections 406, 468, 420 and 120(B) of IPC, had filed this quash petition.

2. The primary contention of the petitioner is that the petitioner is the driver of A1 and A2. In this case, A1 and A2 are husband and wife, who claimed that they are employed in Malaysia Airport and they got good contact in Malaysia and they can secure job for the job seekers, who are all willing to work in Malaysia and as driver, their minimum salary would be around Rs.1,60,000/-, on the promise, they had lured and collected money from several persons/ job seekers/ L.W.1 to L.W.17. The petitioner's contention is that even prior to registration of FIR, from the petitioner, a sum of Rs.2,00,000/- have been collected. The petitioner has also paid the same. Thereafter, coming to know that A1 had cheated the petitioner and thereafter, the petitioner lodged a complaint to the Superintendent of Police, Madurai, who had called upon the petitioner, A1 and A2 for enquiry. In such circumstances, the petitioner would have been a right person and good witness, not co-accused. Hence, he had filed this quash



petition.

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3. The learned Government Advocate (Crl.side), on the other hand, submitted that the petitioner is not only driver, he had been moving with A1 and A2 through and through. It is the case of conspiracy and the petitioner's role cannot be apparent, it has to be decided only during trial. In this case, there are 11 victims and to the tune of Rs.30,00,000/- have been cheated. Only Rs.1,00,000/- could be recovered and the balance amount is yet to be recovered. Now, A1 and A2 were also absconding. All the witnesses had categorically stated that the petitioner was along with A1 and A2, in some cases, the petitioner also received money. In such circumstances, the petitioner cannot claim that he is innocent person and cheated. Further, the petitioner's contention that he had lodged a complaint earlier against A1 and A2. They were called for enquiry, is the disputed document, which cannot straight away taken for consideration and it will not absorb the petitioner from the offence. It is clear case of job rocketing and 11 innocent persons have been cheated. Hence, strongly opposed the contention of the petitioner.

4. Mr.K.Seema Raj, learned counsel appearing for the second



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respondent/defacto complainant strongly opposed the petitioner's contention stating that the local guide for A1 and A2 is the petitioner.

Through the petitioner only, the job seekers approached A1 and A2 and gave money and now, taking absence of A1 and A2, the petitioner claimed that he is no way connected with A1 and A2. These are disputed fact, which has necessarily to be decided during trial, not in the quash petition.

5. Considering the points raised by the petitioner, which are disputed facts, which have to be necessarily decided only during trial, further more, the charge of conspiracy is also there, in the absence of direct evidence of conspiracy, the conspiracy has to be proved by the role played by each of the accused, which has to be decided during trial, not in the quash petition. Hence, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

**06.12.2024**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes / No  
*Rmk*



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To

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- 1.The Judicial Magistrate No.II,  
Sivagangai.
- 2.The Inspector of Police,  
District Crime Branch,  
Sivagangai.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**M.NIRMAL KUMAR,J.**

*Rmk*

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