



Crl.O.P.(MD)No.576 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2024

CORAM

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CRL.OP.(MD)No.576 of 2023

and

CRL.MP.(MD)Nos.523 & 525 of 2023

1.Selvamary

2.Packiam

... Petitioners

Vs.

1.The Inspector of Police,

District Crime Branch,

Sivagangai District.

(In Crime No.17/2016)

2.Sathish

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining with the C.C.No.425 of 2019, on the file of the learned Judicial Magistrate Court No.2, Sivagangai, Sivagangai District and quash the same as illegal against these petitioners.

For Petitioners : Mr.R.Balamuruganantham

For Respondent No.1 : Mrs.M.Aasha

Government Advocate [Crl. Side]



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ORDER

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This Criminal Original Petition has been filed, invoking Section 482 of Cr.P.C., to call for the records pertaining to C.C.No.425 of 2019, on the file of the learned Judicial Magistrate Court No.2, Sivagangai, Sivagangai District and to quash the same.

2.The petitioners are ranked as A2 and A4 respectively and A1 is the husband of A2 and A4 is the brother of A2. A1 claimed himself as a political influencer and with a promise of obtaining teacher's job to various persons, received a total sum of Rs. 9,35,000/- from 12 persons. Based on the complaint, the police have investigated the case and examined all the 12 persons and filed the final report against the petitioners as well as three others under Section 406, 468, 471, 420 r/w. 120-B of IPC. The Judicial Magistrate No.II, Sivagangai, took cognizance of the final report and issued processes to the petitioners.

3.Aggrieved over the process issued, this petition has been filed for quashing the said criminal proceedings.

4.Learned Counsel for the petitioners submits that the first petitioner is the wife of the first accused and the second petitioner



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is the brother of the first petitioner. Since they are family members, they have been falsely implicated in this case. He would also rely upon the divorce petition initiated by the first petitioner to submit that she was not living with the first accused and submitted that even prior to the cause of action arose in this case, they were separated. Hence, the first petitioner has been falsely implicated in the present case. It is also stated that there is no allegation neither against A2 nor A4 and no offence is made out at this stage.

5.Per contra, learned Government Advocate [Crl. Side] submits that the petitioners have been served with summons and subsequently they failed to appear and Non-Bailable Warrants are issued and the same are pending. In the meantime, they have also filed this petition for quashing the criminal proceedings and there are ample evidences and statements recorded from the witnesses which would show that petitioners have actively participated in the collection of money from almost 12 persons and joined with the first accused and cheated Rs.9,35,000/-.

6.I have carefully considered the submissions made by both sides and perused the materials available on record.



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7.The statements and the list of witnesses recorded by the police shows that A1 to A5 are family members who have lived in one roof and they have collected Rs.10,000/- for issuance of applications and thereafter, they have demanded the witnesses to deposit the money in the bank account of A1. From the statements, it comes to light that when the witnesses have gone to collect the applications, these petitioners were present and in their presence the application amount of Rs.10,000/- was paid on each occasion and subsequently, the money was received in the bank account of Accused No.1 and almost 8 witnesses have spoken about the Accused No.2 and one witness has spoken about A4 and his presence and involvement in the offence. Hence, implicating A2 & A4 is justified.

8.In this case, the FIR has been registered not only under Section 406, 468, 471, 420 of IPC but also under Section 120-B of IPC, to show that all the accused have conspired and involved in the said offence. Since conspiracy is also one of the offence, cognizance has also been taken under Section 120-B of IPC. The case of the petitioner could not be segregated and the proof of 120-B would depend upon the evidences adduced for the other offences and only based on the proven circumstances, Section 120-B gets



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attracted. This Court is not inclined to decide at this stage whether Section 120-B is made out against the petitioners or not as stated in the earlier paragraphs that there are specific allegations by the witnesses against the petitioners. However, it is stated that the first petitioner being a lady aged about 60 years and second petitioner is suffering from cancer, I am inclined to dispense with their appearance before the trial Court. However, they shall appear before the Court below as and when the learned Magistrate directs them to appear.

9.With the above observation, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

15.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
MR



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To

1.The Judicial Magistrate Court No.2,
Sivagangai,
Sivagangai District.

2.The Inspector of Police,
District Crime Branch,
Sivagangai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.RAJASEKAR,J.

MR

Order made in

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Dated: 15.07.2024