



Crl.O.P.(MD)No.1233 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.1233 of 2022
and
Crl.M.P.(MD).Nos.905 & 907 of 2022

1.Selvaganesh @ Selva Ganesh
2.Thinesh @ Dinesh Suyambu ... Petitioners

Vs.

1.State represented by
the Inspector of Police,
Kottar Police Station,
Kanyakumari District.
(In Crime No.233 of 2019)
2.Sheelamenan,
Branch Manager,
Indian Bank,
Meenachipuram Branch, Nagercoil,
Kanyakumari District. ...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the charge sheet in C.C.No. 143 of 2020 under Section 420 IPC on the file of the Additional Mahila Court, Nagercoil and quash the same in respect of the petitioners are concerned.

For petitioners	: Mr.G.Anto Prince
For R-1	: Mr.P.Kottaichamy, Government Advocate (Criminal Side)



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For R-2

: Mr.C.Karthik,
Standing Counsel

ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.143 of 2020 for the alleged offence punishable under Section 420 IPC on the file of the learned Additional Mahila Judge, Nagercoil, insofar as the petitioners are concerned.

2. The case of the prosecution is that the first accused person, who was intending to participate in an auction hosted by the Nagercoil Municipality, had obtained a Demand Draft to the tune of Rs.2,00,000/- in favour of the Commissioner of Nagercoil Municipality. On 31.10.2018, the said Demand Draft was obtained from the second respondent's Bank, wherein, the first accused person was having a Bank Account. Since the first accused person lost the original copy of the aforesaid Demand Draft, on 19.12.2018, he had requested the second respondent's Bank to remit the said amount of Rs.2,00,000/- in his Bank Account. In respect of the same, the first Accused person had even executed an Indemnity Bond in favour of the second respondent's Bank and herein, the second accused undersigned as the witness for the Indemnity Bond. Later, it was alleged that the said Demand Draft was



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already given to the Nagercoil Municipality on 31.12.2018, the Commissioner of the above said Municipality had presented the Demand Draft in the Bank. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners did not commit any offence as alleged by the prosecution.

4. The learned Government Advocate (Crl. Side) would submit that the charges against the petitioners have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5. In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioners, if they are subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. The petitioners cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against them. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in *State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)*.



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6. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.143 of 2020, pending on the file of the Additional Mahila Court, Nagercoil. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

7. At this juncture, the learned counsel appearing for the petitioners would submit that this Court may consider to dispense with the personal appearance of the petitioners before the court below. Taking into consideration the request as made by the learned counsel for the petitioners, the appearance of the petitioners before the trial court is dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

21.02.2024

Index : Yes/No
Internet : Yes/No
TSG



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To

1.The Additional Mahila Court, Nagercoil.

2.The Inspector of Police,
Kottar Police Station,
Kanyakumari District.

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

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M.DHANDAPANI. J.

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