



CRL OP(MD). No.2549 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 31.01.2024

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The Hon`ble Mr.Justice M. DHANDAPANI

CRL OP(MD). No.2549 of 2022
and Crl.M.P.Nos.1900 and 1901 of 2022

1. Balamurugan,

2. Vetrivel

... Petitioners

Vs

1. The Inspector of Police,
Virudhunagar West Police Station,
Virudhunagar District.
Cr.No. 381 of 2017.

2. Ramasamy,
S/o.Ramasubbu,
2/8, Middle St, Amathur,
Virudhunagar,
Virudhunagar District.

... Respondents

PRAYER :- Criminal Original Petition is filed under Section 482 Cr.P.C. to call for the records of the impugned C. C. No. 211 of 2020 on the file of the Learned Judicial Magistrate No. 1 Virudhunagar and quash the same as illegal in so far as the petitioners.



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CRL OP(MD). No.2549 of 2022

For Petitioners : M/s. Suyambulinga Bharathi K,

For Respondents : Mr.P. Kottaichamy
Government Advocate (Crl.Side)

ORDER

This petition has been filed to quash the case in C.C.No. 211 of 2020 on the file of the Learned Judicial Magistrate No. 1 Virudhunagar against the petitioners.

2.The case of the prosecution is that a complaint has been lodged by the 2nd respondent stating that A1 is doing real estate business, in which, on monthly basis, those who have deposited amount will get the plots registered in their name. While so, A1 said to have cheated the persons by collecting money and without registering any plots in their favour. The petitioners herein are the brother and brother-in-law of A1 respectively. The complaint has been registered in Crime No.381/2017 and on completion of investigation, charge sheet has been laid in C.C.No. 211 of 2020 for offences under Sections 406, 420 and 506(I) IPC.



CRL OP(MD). No.2549 of 2022

3. The learned counsel for the petitioners would submit that the petitioners are nothing to do with the alleged offence and they have been falsely implicated in this case. The petitioners have nothing to do with the alleged receipt of amount and they have not collected any amount from the customers. Therefore, on this ground, the learned counsel prays for interference.

4. The learned Government Advocate (Crl. Side) would submit that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and 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 petitioner, if he is subjected to due trial as sufficient opportunity would be given to him to put forth his defence. The petitioner 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 him. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)*** wherein, the Hon'ble Apex Court held as under :

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, which we have extracted illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the



F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is



CRL OP(MD). No.2549 of 2022

maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

6. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.211 of 2020, pending on the file of the learned Judicial Magistrate No.I, Virudhunagar. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petitions are dismissed.

7. The learned counsel appearing for the petitioners submitted that this Court may consider dispensing 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 their appearance on those days. It is



CRL OP(MD). No.2549 of 2022

made clear that the trial shall be completed within a period of six weeks
from the date of receipt of a copy of this order.

31.01.2024

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TO

1. The Judicial Magistrate, No.I
Virudhunagar.
2. The Inspector of Police,
Virudhunagar West Police Station,
Virudhunagar District.



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CRL OP(MD). No.2549 of 2022

M.DHANDAPANI. J

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**ORDER
IN
CRL OP(MD) No.2549 of 2022**

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