



Crl.O.P.(MD) No.19137 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.19137 of 2021

and

Crl.M.P.(MD) No.10645 of 2021

1.N.Shanthi

2.N.Srinidhi

... Petitioners

Vs.

1.State rep. by

The Inspector of Police,
Velliyanai Police Station,
Karur District.
(Crime No.425 of 2021)

2.Velumani

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records pertaining to the F.I.R. in Crime No.425 of 2021 on the file of the Velliyanai Police Station, Karur and quash the same as far as the petitioners are concerned.

For Petitioners : Mr.K.Govindarajan
for Mr.R.Mathiyalagan

For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



WEB COPY



Crl.O.P.(MD) No.19137 of 2021

For R2

: Mr.B.Prahalad Ravi

ORDER

Seeking to quash the First Information Report [F.I.R.] in Crime Number 425/2021 of Velliyanai Police Station, Karur, registered against the petitioners (A9 and A11) for the offences punishable under Sections 294(b), 417, 420, 468 and 506(1) of IPC, the Criminal Original Petition is filed.

2. The case of the prosecution in a nutshell is as follows:

(i) The second respondent Velumani (*de facto* complainant), a resident of Manjanayackan Patti Village, Karur District deposited a sum of Rs.13,00,000/- in M/s.Sakthi Enterprises (A1) in which the accused 2 to 8 are partners. When he demanded the partners of M/s.Sakthi Enterprises to re-pay the money back to him, the second accused and others abused him in filthy language and also threatened him with dire consequences.

(ii) Based on the complaint given by the *de facto* complainant, an F.I.R. in Crime No.425 of 2021 was registered by the Sub-Inspector of Police, Velliyanai Police Station, Karur, against 11 accused including the



Crl.O.P.(MD) No.19137 of 2021

present petitioners, for the offences punishable under
Sections 294(b), 417, 420, 468 and 506(1) of IPC

3. Mr.K.Govindarajan, learned counsel for the petitioners (A9 and A11) would contend that the present petitioners are legal heirs of one of the partners namely, S.Nagarajan who died on 15.10.2019 and that they are no way connected with the offences allegedly committed by the partners of M/s.Sakthi Enterprises. It is his further contention that the police seems to have filed the final report against the petitioners even without any specific allegations against them either in the complaint or in the statements of the witnesses recorded by the police under Section 161(3) of Cr.P.C.

4. Per contra, Mr.K.Sanjai Gandhi, learned Government Advocate (Crl. Side) appearing for the first respondent police would contend that since the petitioners (A9 & A11) are legal heirs of one of the partners S.Nagarajan, they are beneficiaries and therefore, the F.I.R. was registered against them also. He therefore prayed for dismissal of the present Criminal Original Petition.



Crl.O.P.(MD) No.19137 of 2021

5. The specific allegation against the accused is that when the *de facto* complainant went to M/s.Sakthi Enterprises during August, 2020 for requesting the partners to return the money back to him, the second accused along with some of the accused (except the present petitioners) abused him in filthy language and also threatened him with dire consequences. The present petitioners (A9 and A11) are legal heirs of the one of the partners (since deceased) and they were not present admittedly at the place of occurrence and therefore they cannot be charged for the offences punishable under Sections 294(b) and 506(1) of IPC. There is absolutely nothing on record to show that the present petitioners took active part in the day to day affairs of the partnership firm and therefore, they cannot be charged for the offences punishable under Sections 420 and 468 of IPC. It is settled law that the condition precedent to constitute an offence punishable under Section 420 of IPC is that there should be an intention to deceive at the very inception. Since this is lacking in the instant case, the petitioners cannot be charged for the offence punishable under Section 420 of IPC. There is also no ingredient to attract the offence punishable under Section 468 of IPC as the prosecution has not explained as to which document was forged/fabricated by the present petitioners.



Crl.O.P.(MD) No.19137 of 2021

WEB COPY

6. In the circumstances, the F.I.R. in Crime Number 425/2021 and the consequent final report on file of the Judicial Magistrate Court No.II, Karur are quashed as far as the present petitioners (A9 and A11) are concerned.

7. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

06.03.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

JEN

To:

- 1.The Judicial Magistrate No.II,
Karur, Karur District.
- 2.The Inspector of Police,
Velliyanai Police Station,
Karur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD) No.19137 of 2021

R.HEMALATHA, J.

JEN

Crl.O.P.(MD) No.19137 of 2021
and
Crl.M.P.(MD) No.10645 of 2021

06.03.2024