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Crl.O.P.(MD)No.20878 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2024

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.20878 of 2024

Ramalingam

.. Petitioner

Vs.

1. The Sub Inspector of Police
District Crime Branch
Tenkasi District

2. Sumangalipriya

.. Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS to direct the first respondent not to harass the petitioner under the guise of enquiry or investigation in Crime No. 25 of 2024 a complaint projected by the second respondent and desist from involving any kind of threatening, coercing treatments during the appearance of the petitioner for the enquiry scheduled on 28.11.2024 and or any subsequent dates.

For Petitioner : Mr.S.Sivailayaraja

For Respondents : Mr.A.Thiruvadikumar
No. 1 Additional Public Prosecutor

No.2 : Mr.A. Balaji



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ORDER

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This Criminal Original Petition has been filed to direct the first respondent not to harass the petitioner under the guise of enquiry or investigation in Crime No. 25 of 2024 a complaint projected by the second respondent and desist from involving any kind of threatening, coercing treatments during the appearance of the petitioner for the enquiry scheduled on 28.11.2024 and or any subsequent dates.

2. The learned counsel appearing for the petitioner submitted that the petitioner had earlier filed an application for bail before this Court in Crl.O.P(MD) No. 19804 of 2024 in Crime No. 25 of 2024 for the offences under Sections 406,468,471,120(B),294(b) and 506(i) of IPC, in which the defacto complainant intervened as party in person. The defacto complainant had lodged a complaint stating that the petitioner has received a sum of Rs.72,87,900/- on the ground that the petitioner will be made as partner in the on going business. The petitioner had failed to make the defacto complainant as partner, hence he had lodged a complaint and case has been registered. Earlier the case against the petitioner and the defacto complainant was referred to mediation and in the mediation it could not be settled,hence the petitioner apprehending arrest has filed anticipatory



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bail application before this Court and this Court by an order dated 07.11.2024 in Crl.O.P(MD) No.17084 of 2024 considering the fact that it is a money dispute and immediate arrest is not resorted directed to follow the procedure under Section 35 of BNSS to be followed. The respondent police without following such procedure are harassing the petitioner, hence filed the present petition.

3. The learned Additional Public Prosecutor submitted that after the order passed by this Court on 07.11.2024 the petitioner was served with summons on 19.11.2024 to appear on 28.11.2024 but he failed to appear on 28.11.2024 and filed a petition before this Court on 25.11.2024 as though as though harassment and coercion has been exerted on him which cannot be true. The respondent police after issuing notice awaited for the petitioner to appear on 28.11.2024, yesterday the petitioner failed to appear and the respondent police are taking steps to secure the petitioner.

4. The learned counsel appearing for the second respondent/defacto complainant would submit that the petitioner is not co-operating with the investigation and taking shelter on the order passed by this Court on 07.11.2024. The petitioner has received a sum of Rs. Rs.72,87,900/- from



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the second respondent and he is armed with the money received from the second respondent and using the same denying the repayment of money and filing one petition or another.

5. It is seen that the petitioner was served with the notice on 19.11.2024 to appear on 28.11.2024. The petitioner submitted that he fell sick on 28.11.2024 and hence he could not appear before the respondent police.

6. The learned counsel appearing for the petitioner on instruction submitted that petitioner will appear before the respondent police on 02.12.2024 without fail.

7. In view of the same, calling the petitioner for enquiry cannot be termed as harassment. The petitioner is directed to appear before the respondent police on 02.12.2024 failing which appropriate action would be taken including coercion.



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8. With the above direction, the Criminal Original Petition stands disposed of.

29.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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Note: Issue order copy on 29.11.2024

To

1. The Sub Inspector of Police
District Crime Branch
Tenkasi District
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR,J.

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