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Crl.O.P.No.7963 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.O.P.No.7963 of 2024
and Crl.M.P.No.5788 of 2024**

1. Kulandaisamy
2. Vijayalayan

... Petitioners

Vs.

1. State represented by its
Inspector of Police,
DCB Police Station,
Coimbatore.
(Crime No.27 of 2023)

2. V.Nandakumar

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in Crime No.27 of 2023 on the file of the DCB Police Station, Coimbatore and quash the same.

For petitioners : Mr.R.Karthikeyan

For R-1 : Mr.K.M.D.Muhilan

ORDER

This petition has been filed seeking to quash the proceedings in Crime No.27 of 2023 on the file of the DCB Police Station, Coimbatore and quash the same.



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2. The case of the prosecution is that the *de facto* complainant is one of the trustees of the Public Charitable Trust named as Coimbatore Education Foundation and further it is alleged that the petitioners have misappropriated the funds of the Trust for their personal use. Further it is alleged that the petitioners have filed a suit in O.S.No.456 of 2019 and the same was withdrawn by them. Thereafter, another suit was filed against the petitioners in O.S.No.708 of 2020 and the same is pending before the respective Court. Thereafter, it is alleged that the petitioners have collected fees from the students in the name of the Trust for a sum of Rs.4,30,00,000/- from April 2019 till September 2020. As against the said act of the petitioners, the *de facto* complainant made a complaint against the petitioners before the law enforcing agency and a case was registered in Crime No.27 of 2023. Aggrieved against the registration of the FIR, the petitioners have filed the present petition.

3. The learned counsel for the petitioners submit that though the criminal case has been put against the petitioners, however no cognizable offence has been made out against the petitioners. Hence, he prayed this Court, to permit the petitioners to produce all the necessary documents



before the Law Enforcing Agency enabling the petitioners to disprove the contents of the complaint and thereafter, the Law Enforcing Agency may be directed to conclude the same by referring the matter as mistake of fact subject to the cognizability of the offence.

4. The learned Government Advocate (Crl.side) appearing for the first respondent Police submits 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 hence, he would pray to dismiss the present petition.

5. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the first respondent.

6. On a reading of FIR, there appears to be some materials for the investigation to proceed. It is also seen that the issue involved in the present case is civil in nature. Interfering with the investigation, which is at an infancy stage under Section 482 of the Code of Criminal Procedure, will be against the law laid down by the Supreme Court in ***State of Haryana and others vs. Bhajan Lal and others*** reported in ***1992 Supp***



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(1) SCC 335.

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M.DHANDAPANI. J.

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7. Accordingly, this Criminal Original Petition stands dismissed. However, liberty is granted to the petitioners to produce all the requisite documents to disprove the contents of the FIR before the Law Enforcing Agency and the Law Enforcing Agency shall refer the matter as mistake of fact subject to the cognizability of the offence. Consequently, connected miscellaneous petition is closed.

01.04.2024

Index : Yes/No

Internet : Yes/No

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To

1. Inspector of Police,
DCB Police Station,
Coimbatore.
(Crime No.27 of 2023)

2.The Additional Public Prosecutor,
Madras High Court.

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