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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-03-2025

CORAM

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP NO. 2080 of 2023

&

CRL MP NO. 1191 of 2023

R.Rakesh

S/o.Radhakrishnan, No.957, Lakshmanaswamy
Salai, K.K.Nagar Chennai - 600 078.

Petitioner(s)

Vs

1.The State rep by
The Inspector Of Police, District Crime Branch,
Kancheepuram District.
(Cr.No.8 Of 2017)

2.P.Selvaraja

Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.PC., to call for the records and quash the final report filed in CC No.47 of 2020 on the file of the learned Judicial Magistrate II, Kancheepuram, as against the petitioner.

For Petitioner(s):

M/s.X.Selvam Sounder

For Respondent(s):

R.VinothRaja, Govt. Advocate (Criminal Side) for R1

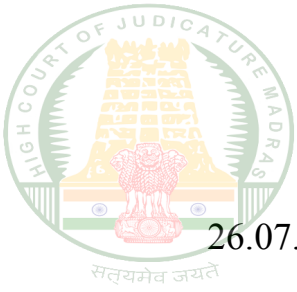


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ORDER

This Criminal Original Petition is filed to quash the proceedings in CC No.47 of 2020 on the file of the learned Judicial Magistrate II, Kancheepuram, as against the petitioner.

2. On the complaint lodged by the second respondent, the first respondent registered an FIR in crime no.8 of 2017 for the offences under Sections 420, 34, 468, 471 of IPC against the petitioner and others, alleging that when the second respondent was trying to get a medical seat in Meenakshi Medical College and Hospital Research Institute, Enathur, Karaipettai Post, Kancheepuram, one Manimaran introduced the first accused and assured that he will get seat in the Medical college, since he is running canteen in the said Medical college. The second accused is the Personal Assistant to one of the Directors of the Medical College. The third accused is the Clerk of the Medical College. The 4th accused was one of the Administrative Directors of the Medical College. All the accused persons had assured him to get a medical seat and received a sum of Rs.60 lakhs in total. On 12.06.2015, the first accused received a sum of Rs.22 lakhs. On



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26.07.2015, the second accused received a sum of Rs.28 lakhs and on

31.08.2015, the first accused once again received a sum of Rs.10 lakhs from

the second respondent. Likewise, from another victim, a sum of Rs.50 lakhs was received by the accused assuring him to get a medical seat for his son.

Thereafter, they failed to get any Medical seat in the said college and also refused to return the money to the victims. After completion of investigation, the first respondent filed a final report and the same was taken cognizance vide CC no.47 of 2020 on the file of the learned Judicial Magistrate II, Kancheepuram.

3.The learned counsel for the petitioner would submit that the petitioner was arrayed as A4. He is one of the Directors of the M/s.Meenakshi Medical College & Hospital, Kancheepuram District and absolutely he had no contact with the victims. In fact, the other 3 accused persons are strangers to him. The petitioner is being one of the Directors, he has been falsely implicated as accused. Even according to the case of the prosecution, the petitioner did not receive any amount from the defacto complainant or any other victims. No witness has spoken about the overt act of the petitioner to attract any of the offence alleged by the prosecution.



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4.The learned counsel for the second respondent would submit that the petitioner being one of the Directors of the said College, only on his instructions, the other accused persons induced the defacto complainant and others to pay huge money to get medical seat in the Meenakshi Medical College. Therefore, the offence under Section 34 of IPC is clearly made out as against the petitioner. That apart, the grounds raised by the petitioner cannot be considered by this Court that too under Section 482 of Cr.PC since it requires to be tried before the trial Court.

5.The learned Government Advocate (Crl side) would submit that after completion of the investigation, the first respondent filed a final report in which, the petitioner was arrayed as A4. There are specific over facts as against the petitioner and the petitioner is being one of the Directors, he has absolute knowledge about the receipt of the money and he is also liable to be held liable to be punished for the offence as charged by the trial Court.

6.Heard the learned counsel on either side and perused the entire material available on record. There are totally 4 accused, in which the



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petitioner herein was arrayed as A4. Even according to the case of the prosecution, he is one of the Directors of the Meenakshi Medical College.

Insofar as A1 to A3 are concerned, the first accused was introduced by one Manimaran, who is the friend of the second respondent. He is the first accused, who is running a canteen in the Medical college. The second accused is the Personal Assistant to the petitioner herein. The third accused is the Clerk of the Medical College. However, there is no iota of *prima facie* material to show that the petitioner also had common intention with the accused persons to deceive the defacto complainant to pay huge amount that too for getting a medial seat. Further, though the prosecution specifically alleged that the second accused is the Personal Assistant of the petitioner, there is no whisper to substantiate the same. No one has spoken that the second accused is the Personal Assistant of the petitioner herein. That apart, on perusal of the statement recorded under Section 161(3) of Cr.PC., no one supports the statement of the second respondent and another victims. It is also not the case of the prosecution that A1 to A3 confessed about the role played by the petitioner and accordingly, the petitioner has been implicated as an accused. Further, even the FIR and the additional alteration report did not disclose any specific allegation as against the petitioner to



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implicate him as an accused for the charges under Sections 420, 34, 468, 471 of IPC. The petitioner never met the second respondent as well as the another victim in order to induce them to pay the huge amount for getting medical seat. Therefore, the offences under Section 420 is not at all attracted as against the petitioner. It is relevant to extract the provisions under Section 420 of the Indian Penal Code as follows :-

420. Cheating and dishonestly inducing delivery of property — Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

The ingredients to constitute an offence under Section 420 of IPC are as follows :-

(i) A person must commit the offence of cheating under Section 415 and



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(ii) The person cheated must be dishonestly induced to (a) deliver property to any person or (b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security.

Cheating is an essential ingredient for an act to constitute an offence under Section 420.

7. Insofar as the offence under Sections under 468 and 471 are concerned, the petitioner never issued any letter or admission card to the victims. Even according to the case of the prosecution, only on the instructions given by the petitioner, the other accused persons were alleged to have induced the defacto complainant to pay the huge amount for getting the Medical seat. Therefore, the allegation of creating a false certificate cannot be sustained as against the petitioner. The petitioner did not forge anybody's signature and fabricated any document to attract the offences under Sections 468 & 471 of IPC in order to make out a case under Section 34 of IPC. No one has spoken about the contact between the petitioner and the other accused persons and also any instructions given by the petitioner to other accused persons.



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9. Accordingly, this Petition is allowed and the proceedings in CC No.47 of 2020 on the file of the learned Judicial Magistrate II, Kancheepuram are quashed as against the petitioner alone. The trial Court is directed to proceed with the trial as against the other accused persons within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

24-03-2025

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Index:yes/no

Neutral citation:Yes/no

To

1. The State Rep By Its,
The Inspector Of Police, District Crime Branch
Kancheepuram District, Cr.No.8 Of 2017.

2. P.Selvaraja

S/o.Palanisamy, No.18, Round Road, Dindugal District - 624 005.

8/9



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G.K. ILANTHIRAIYAN.J.,
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