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Crl.O.P.No.13015 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.07.2025

Coram:

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

Crl.O.P.No.13015 of 2025 &
Crl.M.P.No.8595 of 2025

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1.Umesh
2.Abirami

.. Petitioners

Vs.

1.State Rep. by Inspector of Police,
Central Crime Branch,
EDF-1, Team - 2,
Vepery, Chennai District.
(Crime No.76 of 2023)

2.Ganesan

.. Respondents

Criminal Original Petition filed under Section 528 of BNSS, to call for records in C.C.No.2057 of 2024, on the file of the learned Metropolitan Magistrate for Exclusive Trail of CCB Cases (Relating to Cheating Cases in Chennai) and CBCID Metro Cases, Egmore, Chennai, to quash the same.

For petitioners : Mr.S.Suresh

For respondents : Mr.S.Vinoth Kumar
Government Advocate (Criminal Side) for R1

Mr.V.Jai Harisudhan for R2

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ORDER

This Criminal Original Petition has been filed to quash the criminal proceedings pending in C.C.No.2057 of 2024 on the file of the learned Metropolitan Magistrate for Exclusive Trial of CCB Cases (Relating to Cheating Cases in Chennai) and CBCID Metro Cases, Egmore, Chennai, which have been instituted on the basis of a complaint lodged by the second respondent.

2. The petitioners submit that the entire dispute between the parties arises out of a purely commercial and civil transaction, and that the complainant has, without any justification, attempted to give a criminal colour to a matter that does not warrant any criminal prosecution. It is submitted that the case was initially investigated and closed by the police as a mistake of fact, and that the same set of facts has now been re-agitated in a fresh complaint, leading to the registration of the present case. The petitioners further submit that the second petitioner has no role or involvement in the transaction whatsoever and is not even a party to the alleged dispute.

3. The learned counsel appearing for the petitioners would contend that the criminal proceedings are malafide, vexatious, and an abuse of the process of law, and that the same are being used as a tool of harassment and coercion to settle a

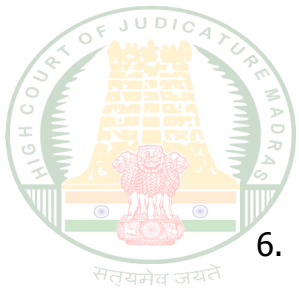


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civil dispute through criminal means. The learned counsel would point out that mere breach of contract or failure to perform a civil obligation cannot give rise to a criminal offence, unless there is a clear and specific allegation of fraud or dishonest intention.

4. The learned Government Advocate appearing for the first respondent– Police submitted that there are prima facie allegations and materials on record to proceed against the petitioners. It was urged that the petitioners had knowingly and fraudulently obtained money from the private respondent, thereby making out a case warranting trial. It was further submitted that the charge has already been framed and the trial has commenced, and therefore, the petition is not maintainable at this stage.

5. The learned counsel appearing for the second respondent submitted that the petitioners had induced the de facto complainant to invest funds in a project by making false representations, and thereafter failed to either return the money or execute any agreement. It is contended that the conduct of the petitioners clearly reveals a dishonest intention from the very inception, and therefore, the ingredients of the alleged offences are made out.



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6. Heard the learned counsel for both parties and perused the materials placed on record.

7. It is not in dispute that the case has been registered on the basis of a complaint lodged by the second respondent, and the first respondent-police has laid a final report in C.C.No.2057 of 2024. A perusal of the complaint, charge sheet, and the statements recorded under Section 161 CrPC reveal that there are specific and prima facie allegations made against the petitioners. While the petitioners claim that the matter is purely commercial, the respondent alleges that the petitioners, with dishonest intention, induced the private respondents and thereby committed the offence of cheating. The existence of a transaction between the parties is admitted, but the nature of the transaction and the intention behind it are seriously disputed and can only be determined upon appreciation of evidence during trial.

8. The contentions raised by the petitioners are in the nature of defences, which can only be examined during the course of the trial. At this stage, the Court cannot conduct a detailed inquiry into the truthfulness of the allegations or assess the reliability or strength of the materials collected during the investigation. The complaint and the supporting materials do reveal the commission of a cognizable offence, and this Court does not find any valid reason to quash the proceedings by exercising its inherent powers. However, considering the nature of allegations and



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the specific role attributed to the second petitioner, this Court is inclined to grant exemption from personal appearance. Accordingly, the personal appearance of the second petitioner before the trial Court is dispensed with.

9. In view of the above directions and observations, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

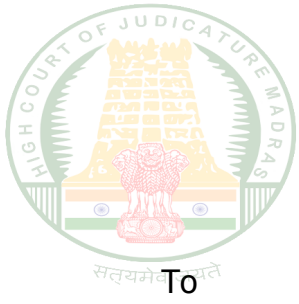
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Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No



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- To
- 1.The Metropolitan Magistrate for Exclusive Trail of CCB Cases
(Relating to Cheating Cases in Chennai) and CBCID Metro Cases,
Egmore, Chennai,
 - 2.The Inspector of Police,
Central Crime Branch,
EDF-1, Team - 2,
Vepery, Chennai District.
(Crime No.76 of 2023)
 3. The Public Prosecutor, Madras High Court, Chennai.



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