



Crl.R.C.No.1205 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1205 of 2023

Ruby Noelina Thoecore

... Petitioner

..VS..

1. Latha

2. Anitha

3. Tamijarassane

... Respondents

Criminal Revision Case filed under Sections 397 and 401 Cr.P.C., to set aside the order passed by the Chief Judicial Magistrate, Puducherry dated 18.04.2023 in Crl.M.P.No.5950 of 2022 in C.C.No.222 of 2022 pending on the file of the learned Chief Judicial Magistrate, Puuducherry.

For Petitioner : Mr.S.Diwakar

For Respondents : Mr.Anil Relwani for R1 and R2
Mr.V.Chandrasekaran for R3



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ORDER

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This Criminal Revision Petition has been filed to set aside the order dated 18.04.2023 passed by the learned Chief Judicial Magistrate, Puducherry in Crl.M.P.No.5950 of 2022 in C.C.No.222 of 2022.

2. According to the petitioner, the third respondent - A1 had impersonated as the petitioner-complainant, forged her signature in the Bank withdrawal slip dated 19.10.2016 and misappropriated a sum of Rs.38,500/- with the aid and help of respondents 1 and 2 herein/A2 and A3. Hence, the petitioner filed a complaint before the Station House Officer, Grand Bazaar Police Station, Pondicherry, but no action was taken and he filed a complaint before the Superintendent of Police (East), Pondicherry. Since there was no response from the Police, the petitioner filed a private complaint invoking Section 200 Cr.P.C., in C.C.No.222 of 2022 before the Chief Judicial Magistrate, Puducherry against the third respondent herein/A1 for the offences punishable under Sections 403, 416 and 463 IPC and as against respondents 1 and 2 herein/A2 and A3 for the offences punishable under Sections 107 and 405 IPC read with



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Sections 109, 120-B, 406, 465 and 403 IPC.

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3. It is further stated that, pending the said calendar case, respondents 1 and 2/A2 and A3 have filed a petition under Section 227 Cr.P.C., in Crl.M.P.No.5950 of 2022 before the Court below, praying to discharge them from the proposed charges. After appreciating the submissions of both sides, the learned Magistrate, *vide* order dated 18.04.2023, allowed the discharge petition filed by A2 and A3 and also *suo motu* discharged A1 from the proposed charges. Assailing the impugned order, the present revision petition is filed by the petitioner-complainant.

4. Learned counsel for the petitioner submitted that both the petitioner-complainant and A1 are having some extent of relationship for construction of house of the petitioner, for which, they have some financial transactions. Subsequently, some misunderstanding arose between the petitioner and A1 regarding enjoyment of the common amenities in the apartment and that the petitioner filed a suit in O.S.No.437 of 2020 on the file of the District Munsif Court, Puducherry

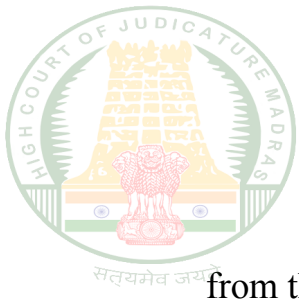


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for injunction. While that being so, the petitioner, while updating her Bank Passbook on 20.12.2021, found an entry indicating that on 19.10.2016, a sum of Rs.38,500/- was debited from the account of the petitioner and credited to the account of A1. However, on the particular date i.e., on 19.10.2016, the petitioner was not in India and she went abroad, which is also evident from her Passport. He further submitted that A2 is a tenant under A1, and A1 was very friendly with A2 and A3. Thus, A1 in connivance with A2 and A3, impersonated the signature of the petitioner in Bank withdrawal slip and withdrew the alleged amount. The learned Magistrate has failed to appreciate the entire materials, allowed the discharge petition filed by A2 and A3 and also *suo motu* discharged A1 from the proposed charges, which is against law.

5. Learned counsel appearing for the third respondent-A1 submitted that no evidence is produced by the petitioner- complainant to prove that A1 had committed an offence as alleged in the complaint and she had also filed the complaint at belated stage. Therefore, the learned Magistrate, after appreciating the entire materials, rightly discharged A1

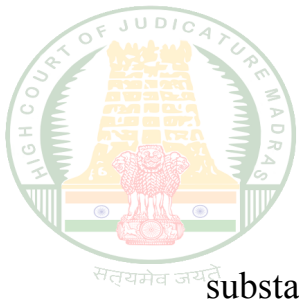


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from the offences along with A2 and A3.

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6. Learned counsel appearing for respondents 1 and 2 submitted that respondents 1 and 2/A2 and A3 cannot be prosecuted, as no ingredients are satisfied as against them with regard to the offence enlisted by the complainant in her complaint. On the date of commission of offence, they were not working in the said branch and they have not cleared any alleged withdrawal slip. He further submitted that the petitioner-complainant, had relied on the material documents i.e., Bank Passbook. The case of complainant is that the alleged misappropriation came to her knowledge only, while she was updating her Bank Passbook from 2016 to 2021 on 20.12.2021. However, the entries as found in the alleged Bank Passbook from 19.10.2016 to 20.12.2021 are not being printed altogether on one day i.e., on 20.12.2021, and it was being printed on several occasions, which is evident from the evidence of C.W.1. Further, the petitioner was aware of all these entries, even earlier to filing of the complaint. Though the complainant specifically suppressed the material fact that the Bank Passbook was being printed periodically and failed to produced the sufficient documents to



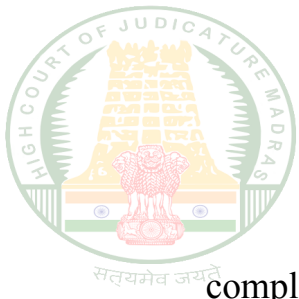
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substantiate the complaint, the Court below found that the accused persons are entitled for an order of discharge and allowed the discharge petition.

7. Heard both sides and perused the materials available on record.

8. The main defence taken by the petitioner-complainant is that, on 19.10.2016, A1, with an intention to de-fraud the complainant, submitted a withdrawal slip, by forging the signature of the complainant and in connivance with A2 and A3, a sum of Rs.38,500/- was withdrawn from the account of the complainant and it was transferred to the account of A1. However, on the particular date, the petitioner went abroad and she was not aware of the said transaction and she never authorized A1 to withdraw the said amount from her account. Taking advantage of the petitioner's absence in the country, A1, in connivance with A2 and A3, impersonated the signature of the petitioner and withdrew the alleged amount from the petitioner's Bank Account. The above facts have not been denied by the accused any where. In support of the complaint, the



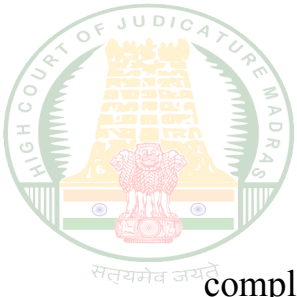
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complainant produced the relevant documents to that effect. However, as to whether the petitioner has submitted the withdrawal slip on 19.10.2016 and her authorization, A1 withdrew the alleged amount or not, can be decided only after trial and not at this stage.

9. It is well settled proposition of law that while considering the discharge petition, the Court has to see *prima facie* allegations made against the accused and also to see the materials made out to substantiate the complaint, but not to see the defence taken by the accused. In the instant case, the grounds raised by the respondents/accused are nothing but a defence and it can be decided only after trial and not at this stage.

10. Considering the facts and circumstances and also the allegations leveled against the respondents/accused, this Court finds that *prima facie* allegations are made out as against the accused persons and there is perversity in the findings of the Court below and hence, the impugned order dated 18.04.2023 passed in Crl.M.P.No.5950 of 2022, is hereby set aside. The learned Magistrate is directed to proceed with the



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complaint in C.C.No.222 of 2022 and dispose of the case on merits and in accordance with law.

11. In view of the above observations, this Criminal Revision Petition is allowed. The personal appearance of the respondents herein/A1 to A3 before the trial Court in C.C.No.222 of 2022 on the file of the Chief Judicial Magistrate, Puducherry is dispensed with. However, A1 to A3 shall appear before the trial Court, as and when their appearance is required for.

13.03.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Case Citation : Yes / No
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To
The Chief Judicial Magistrate,
Puducherry.



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P.VELMURUGAN, J.

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