

CrI.OP.No.19539 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.19539 of 2023

and

CrI.MP.No.13196 of 2023

1. R.Elangovan
2. Rajalakshmi
3. Arun Kumar

... Petitioners

Vs.

1. State Represented by
District Crime Branch,
Cuddalore.

- 2.Anburaja

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records from the first respondent pertaining to the FIR in Cr.No.54 of 2022 dated 29.11.2022 pending on the file of the Inspector of Police, District Crime Branch, Cuddalore for alleged offences under Sections 420, 294(b) and 506(i) of IPC and quash the FIR in so far as the petitioners are concerned.



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For Petitioners : Ms.C.Sandhya
For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side)
for R1
: Mr.C.B.Vishnudasan for R2

ORDER

This petition has been filed to quash the FIR registered in Cr.No.54 of 2022 on the file of the respondent police .

2. On the complaint lodged by the second respondent, the first respondent has registered an FIR in Cr.No.54 of 2022 for the offences punishable under Sections 420, 294(b) and 506(i) of IPC for the allegations that the first petitioner is doing Jewellery business in the main bazaar, Neyveli under the name and style of SRJ Golden Maligai. The defacto complainant's father by name S.S.Rajendran and the first petitioner is known to each other. In this regard, the second respondent's father had deposited a sum of Rs.70,70,000/- with the first petitioner for the purpose of business.



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3. The further allegations is that the first petitioner had assured the share profits and also to repay double the amount. Thereafter, the petitioners had failed to repay the said amount. Infact, they paid only interest to the tune of Rs.50,00,000/- and assured that the remaining amount will be paid within a short period of time.

4. A perusal of records revealed that the second respondent's father had given a sum of Rs.70,70,000/- to the petitioner in the year 2010. Thereafter, the entire amount was repaid by the first petitioner. On receipt of the said amount, the second respondent's father died. After the demise of the the second respondent's father that too after a period of 11 years from the date of alleged deposit, the second respondent has lodged a complaint alleging the entire family members have received a sum of Rs.70,70,000/- from his father and failed to return the entire amount.

5. Even according to the second respondent, on various dates till 13.08.2010, the petitioner had paid a sum of Rs.50,00,000/- and



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assured that the remaining amount will be repaid by double. There is absolutely no explanation for delay in lodging the complaint. That apart, it was proceeded by the second respondent that the first petitioner had scolded him with filthy language and also threatened him with dire consequence. Even assuming that the amount deposited by the second respondent's father is true, subsequently, the petitioners had repaid a sum of Rs.50,00,000/- and as such it is the commercial loan transaction. No offence is made out under Section 420 of IPC.

6. It is relevant to extract the provisions under Section 420 of the 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



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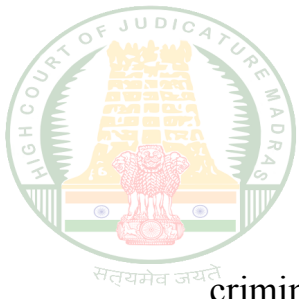
imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

7. 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
- (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.

8. It is relevant to rely upon the judgment made by the Honourable Supreme Court of India in the case of ***M/s. Indian Oil Corporation Vs. NEPC India Limited and others*** reported in (2006) **6 SCC 736**, held that the civil liability cannot be converted into



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criminal liability and it is necessary to take notice of a growing tendency in business circle to convert purely civil dispute in criminal case. This is obviously on account of prevalent impression that civil law remedies are time consuming and do not adequately protect the interest of lender/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claim which do not involve any criminal offence by applying pressure through criminal prosecution should be deprecated and dishonoured.

9. In the case of ***G.Sagar Suri Vs. State of Uttar Pradesh*** reported in ***2000 (2) SCC 636***, the Honourable Supreme Court of India held as follows:-

“It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence, criminal proceedings are not a short cut of other remedies available in law.



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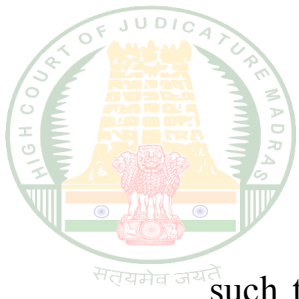
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Before issuing process a criminal Court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

10. To attract the offence under Section 294(b) of IPC, there must be an uttering of words to affect the person who lodged the complaint. In this regard it is relevant to extract the Section 294(b) of IPC, as follows :-

*"294. Obscene acts and songs —
Whoever, to the annoyance of others—
(a) does any obscene act in any public place, or (b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."*

Admittedly, there is absolutely no words uttered by the petitioners as



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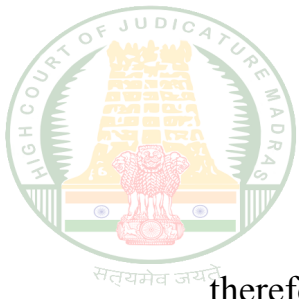
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such to constitute the offence under Section 294(b) of IPC, there is no averments and allegations. Further the charges do not show that on hearing the obscene words, which were allegedly uttered by the petitioners, the witnesses felt annoyed. No one has spoken about the obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the petitioners annoyed others, it cannot be said that the ingredients of the offence under Section 294(b) of IPC is made out.

11. It is relevant to rely upon the judgment reported in **1996(1) CTC 470** in the case of **K.Jeyaramanuju Vs. Janakaraj & anr.**, which held as follows :-

"To prove the offence under Section 294 of IPC mere utterance of obscene words are not sufficient but there must be a further proof to establish that it was to the annoyance of others, which is lacking in the case."

The above judgment is squarely applicable to the present case and



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therefore, the offence under Section 294(b) of IPC is not at all attracted as against the petitioners.

12. It is also relevant to extract the judgement reported in **(1992) SCC Crl. 426** in the case of ***Bajanlal v. State of Haryana***, wherein the Hon'ble Supreme Court of India has listed out the following category of case in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:

"102.....

.....

7. *Where a criminal proceeding is manifestly attended with malafide and/or where the proceedings is maliciously instituted with an ulterior motive for wrecking vengeance on the accused and with a view to spite him due to private and personal grudge."*

Therefore, the impugned FIR is nothing but clear abuse of process of law and the entire allegations cannot be sustained as against the petitioners and liable to be quashed. Accordingly, the FIR registered



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in Crime No.54 of 2023 on the file of the first respondent police is hereby quashed.

13. In the result, this Criminal Original Petition is allowed.

Consequently, the connected miscellaneous petition is closed.

08.042025

Vv

To

1. The Inspector of Police,
District Crime Branch,
Cuddalore.
2. The Public Prosecutor,
Madras High Court,
Chennai.

G.K.ILANTHIRAIYAN, J.

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